BRODERICK AND GWIN.

THE MOST EXTRAORDINARY CONTEST FOR A SEAT IN THE SENATE OF THE UNITED STATES EVER KNOWN.

A BRIEF HISTORY OF

EARLY POLITICS IN CALIFORNIA.

Sketches of Prominent Actors in the Scenes, and an Unbiased Account of the Fatal Duel between

BRODERICK AND JUDGE TERRY,

Together with the Death of SENATOR BRODERICK.

BY JAMES O'MEARA.

"I will a round, unvarnished tale deliver,
. . . . Nothing extenuate,
Nor set down aught in malice."

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FOREWORD

This narrative, written by Mr. James O'Meara, a newspaper writer of San Francisco, California, and published by him in that city in 1881, under the title of "BRODERICK AND GWIN", is reproduced by me under the title of "PIONEER SENATORS", for private distribution among a few of my friends.

The history of this extraordinary Senatorial Contest was carefully compiled by Mr. O'Meara and is, unquestionably, the fairest and most unbiased account of this historical episode ever published, and has been quite freely used as an authority by subsequent writers of early California history.

To Californians, who are sons of pioneers, the work should be particularly interesting as the original is long out of print, and there are few copies in existence.

The final chapter is the oration delivered by Colonel E. D. Baker over the body of his friend, Senator Broderick, and may be termed one of California's Classics. It does not appear in the original work of Mr. O'Meara, but has been added by me as an appropriate ending.

The tragic death of Colonel Baker, himself, occurred about two years after the death of Senator Broderick.

Baker had been elected to the United States Senate from the new State of Oregon and at the commencement of the Civil War enlisted in the Union Army, and made a farewell address to the Senate before joining his regiment. While leading his men he was killed at the Battle of Ball's Bluff, near Washington, D. C.

The concluding act of the California tragedy, however, occurred in 1889, when Judge and Mrs. Terry, who had boarded a train at Fresno during the night on their way to San Francisco, entered the eating house at Lathrop the following morning, and observed Judge Stephen J. Field, of the United States Supreme Court who had entrained at

Los Angeles, seated at one of the tables. Judge Terry, although well advanced in years, walked to the table and, it is alleged, either pulled Judge Field's beard or slapped him in the face.

Terry was incensed at the Judge on account of an adverse decision rendered by the latter in the litigation of Mrs. Terry with United States Senator Sharon of Nevada, and had made threats which had reached Judge Field and caused him to acquire a body-guard as he, likewise, was well advanced in years. Terry was un-armed but, notwithstanding this fact, the body-guard of Field, following the assault, promptly shot him down — Terry dying almost instantly.

Many of Judge Terry's friends, while greatly deploring his impulsive and indefensible action in assaulting Judge Field, persisted in thinking that the slaying verged closely upon murder and, to say the least, was unwarranted.

Senator Gwin resided in San Francisco until his death in 1885. He was well-known and highly esteemed, leaving numerous friends and descendants to mourn his passing.

If the reading of this volume affords you in a small degree the pleasure that it gives me to bestow it, I shall feel amply repaid for my contribution to your enjoyment.

Sincerely yours,

SHANNON CRANDALL.

Los Angeles, 1932.

INTRODUCTION

An inconsiderable portion of the contents of this volume has already been placed before the public in serial form in the columns of a leading city journal, and the favor with which the subject-matter was received in that imperfect and incomplete manner of presentation has prompted the publication of this much-extended and more-satisfactory history of that extraordinary political struggle—so long-protracted, so embittered in its partisan character, and so fraught with the fate of the most conspicuous of the two powerful leaders of the respective factions of the great party to which each belonged, which then shaped and has ever since molded and controlled, in greater or less degree, the organization and the destiny of political parties and partisan contests in California. The chief merit claimed for the work is its fidelity to material facts and the general accuracy of the narrative in every important particular, and this claim has ample support and strong indorsement from the large number of those who bore either more or less prominent part in, or were cognizant of the memorable strife. The most interesting and the most weighty details of the whole struggle, but especially appertaining to its remarkable close, which were entirely omitted from the serial publication, are adequately presented in this book; and without these the narrative and history of the "Broderick and Gwin Fight," as it was at the time and is still popularly termed, can be neither written nor understood.

Valuable facts and details, which could be obtained only from those who stood very near and dear to Mr. Broderick, and who enjoyed his warmest friendship and closest confidence, have been derived directly from the parties themselves—among whom the author is permitted to name Mr. Thomas Maguire, Captain Lyman Ackley, and Mr. John Hayes; and the opportunity is here embraced to express the just sense of the obligation thus imposed, toward the faith-

ful, even-sided, and unbiased narration of the scenes and incidents interwoven and indissolubly connected with an impartial history of the eventful epoch which constitutes the subject of the volume herewith submitted to the public.

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CHAPTER I.

PRELIMINARY TO THE GREAT CONTEST—EARLY LIFE OF DAVID C. BRODERICK.

The long-protracted and partisan struggle, during the early years of this State, between the two foremost leaders of the respective wings of the Democratic party, known to this day as "The Broderick and Gwin Fight," constitutes an epoch in the political history of California. The depth of feeling and the energy and vehemence with which the great contest between these rival giants of their party was fought can hardly be realized by this generation, and is now clearly appreciated only by those who have survived the period in which it occurred. Never before in American history had such rivals come up before the people to struggle for the mastery of place and power; never since has there been a political contest or a partisan feud like it or equal to it; and party management and partisan warfare in California are to this day so affected by it, that in every State Convention of the Democratic party and at every popular election, the consequences or the fruits of it are manifest. It was remarkable for its general character; but it was more remarkable for the broadly-different, almost antipodal natures, qualities, and social positions of the two men who led the opposing columns. Both were men of commanding stature, of robust frame, of imposing personal presence. They were alike fitted for leadership. They were, in their widely-divergent means, equally skilled in the marshaling of men and the management of party; alike masters of the strategy and devices by which the people are brought to subserve the purposes of their accepted chieftains; and while the quality of that adroit finesse which succeeds where mere force would signally fail lay with the elder of the two, there was always latent in the younger such a resistless power, that even extraordinary obstacles gave way before his impetuous vigor.

But in their birth, breeding, training, habits, associations, thoughts, and impulses, their likes and dislikes, their preju-

dices and their passions, and in their natures, equally from instinct and from cultivation, never were two great adversaries more unlike each other than David C. Broderick and William M. Gwin. Wider apart in sentiment and principle, in feeling and in the springs of action, than the North and the South they individually represented, it was the manifest destiny of the two to be brought together in the same party only to clash, and then for each to become the class or party chief, around whom their respective supporters, sympathizers, and recruits should gather. It was natural for them to stubbornly and desperately oppose each other, and all the time to lead their several factions wider apart, until from partisan contestants they had become the most virulent and irreconcilable of foes in partisan hostility as in political warfare. And yet it is noteworthy that the hostile rivalry of the two bore not with it the hateful quality of warring sectionalism, the disturbing element of either favoritism or proscription toward the North or the South. Among the most devoted, and certainly the most effective of Broderick's friends and supporters, were men of Southern birth and Southern sentiment; while among the most faithful, ardent, and influential of Gwin's supporters were Northern men, some of whom had never even put foot on Southern soil, and who were as resolute against slavery as Lloyd Garrison himself—except that they believed in treating it according to constitutional requirements. It was in leading respects a fight of classes and conditions—an uncompromising struggle on the part of Broderick to demonstrate in his own person that the Senate of the United States was as open to the class of which he stood the champion, if not almost the sole representative, as it was to those more favored in the conditions of birth and education and fortune, as his rival was.

David Colbrith Broderick was born of Irish parents in the District of Columbia, February 4th, 1820. His father was a stone-cutter and worker in marble, and it was the prideful boast of his ambitious son, when in the zenith of his fame as a Senator from his adopted State, in the Senate Chamber of the United States, that the chiseling of the massive marble

columns which support and adorn the eastern front of the Capitol was the work of that mourned and honored father. While Broderick was yet a child his parents removed from Washington to the city of New York, and there, when he was a lad of fourteen years, his father was taken by death, leaving dependent the poorly-provided widow and the two sons, David and Richard, of whom the first-named was the eldest, and upon him mainly was devolved the support of the family. He apprenticed himself to his father's trade, at a stone-cutter's yard on the corner of Washington and Barrow streets, and there served the full time of his apprenticeship. At that period the Volunteer Fire Department of New York was an organization which largely attracted the hardy and adventurous young men of the city, particularly the class bred to trades and manual labor. It was a notable training-school for robust natures fond of excitement, disposed to display of muscular superiority, fearless of danger, ready to peril even life in deeds of daring emulation, and not averse to whatever might result in a trial of skill and endurance in personal encounter or in a general fight. Promotion was the certain award of the "best man" in these conflicts, as well as the token of the best fireman, and a foreman who had not won his title by his bravery in hand-to-hand fighting, as well as by his superior skill in the duties of a fireman, was as unlikely an object as an ape to lead lions. During Broderick's apprenticeship he joined this hardy training-school, and before he reached man's estate he had fairly proved himself deserving of a place in the line of promotion, which duly came with the qualities to command it, in which he early and notably revealed remarkable powers.

To be a fireman, however, was not to be also a politician. One could be the one and the other; but the intrusion of political questions or schemes in the Fire Department was held to be in violation of every rightful principle, and hence politics, as the term goes, was rigidly interdicted, and so long as their favorites for offices in the department were the best men in the qualifications the service required, the firemen were utterly indifferent whether they were Democrats or

Whigs. Yet many firemen were also politicians. Broderick first became a fireman. Subsequently, on account of his position, his local prominence, and his influence as an acknowledged leader of his class, he drifted into politics. No doubt his ambition, then stirred to merely local measures, and his disposition to excitement, had also a good deal to do with it. Firemen had their "bunk-rooms" for every engine company, and their places of social gathering. These resorts were the "porter-houses" or drinking-shops, now dignified by the name of "saloons." They were adapted to the times and to the custom they received—snug bar-rooms, furnished with card-tables for players, stout-made common chairs and settees for customers, and the walls hung with cheap pictures —mainly of fire scenes or sporting events. All kinds of wines and liquors were sold at three cents a glass. Cigars were then of three qualities and prices—Spanish, three cents each; half-Spanish, a cent apiece; and American, two, and sometimes three for a cent. None except the rich and the spendthrift among the working-classes smoked three-cent cigars. It was only at the City Hotel, at that time the swell house of the city, and at not above a dozen high-toned public houses, such as Delmonico's, that sixpence was charged for any kind of "refreshment" supplied. The "porter-houses" were the popular resorts of nearly all classes, the wealthiest alone excepted.

Broderick's prominence in the Fire Department led him into the companionship, the rough adventure and turbulent manner of life, incident to such position; and as the "porter-house" was the general rendezvous of the firemen, to the habits and manners of the associations he there formed he very naturally gravitated. Yet he was not addicted to intemperance in the use of stimulants, and, in fact, that was not a common failing among that class. But this companionship and prominence caused him, on the completion of his apprenticeship, to join with or aid them at a fire or in a fight against the companies whose members were considered or encountered as antagonists. Among the companies in friendly alliance with Broderick's were Engine Company

No. 15, called the "Old Maid," or sometimes the "Sawdust" —the name also of a noted resort on Division Street, where congregated the professional prize-fighters of the day—of which Bill Vreeland, a notorious bruiser, was foreman, and Engine Companies No. 5 and No. 31, whose members had earned for themselves the reputation of good firemen and formidable foes. Opposed to the Howards and these other named, were Engine Companies Equitable No. 36, Lawrence No. 27, Columbian No. 14, and No. 29 with its membership of the unterrified "Butt-enders" of Clinton Market. It was while foreman of No. 34, that Broderick had, at one time and another, encountered the bravest fighters and hardest hitters of the companies which antagonized his own in the frequent "scrimmages" of the Department; and in some of these he came off second best—notably in the encounters with Eli Hazelton, Seth Douglass, Abe Bogart, John Williamson, Mose Cutler, Sam Baisely, and Johnny Baum. From the "Subterranean" he moved to another location, and there established himself in a similar resort, which he called "The Republican." His house continued to be the headquarters of his engine-company members, and popular with all their allies and friends among the various other companies—as they were all accustomed to form alliances and friendships for offensive and defensive purposes, for working at fires and in the event of a fight. Among his early associates in his volunteer-fireman days were George W. Green, formerly Treasurer, and Wm. McKibben, once Sheriff of San Francisco, who had also been foremen of No. 34 Engine Company.

Already Broderick had attained the first object of his ambition—the position of foreman of No. 34—and, during the many years he held the place, he maintained it with such spirit and power as to make the company more favored among friends and more dreaded by its foes, and to attract to himself the notice of the men who then mainly managed and led the political parties. His associations and his nature led him to the Democratic party; and before 1840 he had moved toward active participation in the Democratic organization of the Ninth Ward, in which he lived, and subse-

quently he represented that ward in the Young Men's Committee, in the Old Men's Committee in Tammany Hall, and in the County and Municipal Conventions. When the commotion occurred in Tammany, which gave rise to the characterization of one of the factions as "Loco-Focos"—from their having relighted the suddenly darkened room with the aid of the loco-foco matches some of that determined faction had in their pockets—Broderick took sides with that wing of the organization, and he became the acknowledged leader of his class in his own ward. His first prominent appearance in the broader field of politics occurred during the administration of John Tyler, after that President had been repudiated by the Whigs, and while a movement was in progress to bring him over to the Democratic party, or to have the Democratic party brought over to him. A formidable element in Tammany Hall warmly favored the reciprocation of this Tyler grip, and Broderick stood in the front of these. One consequence of his action was his own appointment to a lucrative position in the New York Custom-house, and the ability to secure other appointments for his chosen friends. He exercised at that time a more commanding influence in the Democratic party in the city of New York than had ever been possessed by a man of his rank and station in the community.

Always before that time the control of the organization and the dispensation of official patronage had been committed and intrusted to men of social as well as political distinction, and among these Robert H. Morris, Cornelius W. Lawrence, Clarkson Crolius, and Elijah F. Purdy, were conspicuous among the popular leaders of the Democracy of the city of New York, who were in turn largely governed in their actions by the powerful Albany Regency, under the mastery of Martin Van Buren and his great son John, William L. Marcy, Silas Wright, Edwin C. Croswell, Azariah C. Flagg, Michael Hoffman, Churchill C. Cambreling, Benjamin F. Butler, Aaron Vanderpoel, and others, who managed the political machinery of the General Government quite as much as they directed that of their own Empire State. But

the disastrous defeat of the Democratic party in 1840—which gave to the Whigs the Federal Government and New York also, besides the control they already held in the city, and enabled them to dispense the entire sum of official patronage—had wrought a good deal of demoralization in the Democratic ranks, and the break of President Tyler from his party soon after his succession to the office was hailed with delight by the Democrats generally, but especially by those who hoped or expected to personally profit by it in the way of public position or patronage. As a local leader of more than average ambition, sagacity, and influence, with a devoted and quite formidable following, Broderick was among the first to observe and embrace the opportunity thus unexpectedly presented to any who were disposed to support Tyler's separation from the party which elected him, and to aid him in the creation of an organization of his own; and in the movement he was ably sustained by the noted band of "Subterraneans" and "Spartans," whose chief was the erratic Mike Walsh, and whose mouthpiece was his *Subterranean*, a weekly paper of the character and style that was fitted for such a cause, and that suited alike its membership and their chosen leader. Mike was a strange admixture of the rowdy and the demagogue, with a dash of the statesman in his composition, and something of genius. Although of the humblest class, neither well-educated nor well-balanced, he had wit, drollery, sarcasm, great native shrewdness, and uncommon ability in the acts and means to partisan distinguishment. A natural orator, with a face of brass, and a certain undaunted manner when bravely supported by his choice spirits, Mike Walsh was a dreaded and embarrassing adversary for one of the old school of polished, ornate, and dignified party leaders or speakers to encounter. He had read enough in translations of Grecian history to give him an appreciation of the Spartan character and Spartan training, and had Lycurgus and Leonidas and Sparta and Thermopylæ so apt at his tongue's end, that he could launch any or all of them with such effect as to inflame his followers and excite them to the tumult of applause at which they

were the stentorian champions of the world. Mike was an ardent admirer of John C. Calhoun, and when the great South Carolinian came into the Tyler Cabinet as chief, with the annexation of Texas resolved upon, the Spartan heroes and Spartan memories were temporarily thrust aside by Mike to make full room for "the eternal principles of 1798," which he neither really comprehended nor would let alone in any of his roaring "Subterranean" harangues. He often angered the Tammany leaders, sometimes defied and assailed that powerful organization, and rarely submitted with show of patience or grace to any authority; but he was nevertheless a popular favorite, the idol of his distinctive followers, and at the great gatherings in Tammany was always sure of a crowd clamorous to hear him speak. Nor did the sachems ever feel it safe or expedient to keep him from the stand, where he more than evenly divided the honors with such slang-whanging and uproarious declaimers as Ned Strahan and Alex Wells.

Broderick also had become a reader—a student of the kind of literature and study best adapted to his position and suited to his tastes, although some studies were forced upon him much against his fancy at that time. But in after years he recalled the great value of that early tuition, and lived to deeply regret that he had not more closely applied himself. His self-constituted and volunteer tutor was a young man, not much Broderick's own senior in years, but of severe scholarly impulse, linked with singular looseness of moral behavior, who has since alike debased and elevated journalism, and proved himself as vile and again as grand in the domain of his profession as any that have either dishonored or adorned it. This was George Wilkes, then a writer and publisher of a weekly paper called the *Flash*, devoted to the grossest of local topics and disgusting scandals. Wilkes possessed unquestionable talents. He was directing his remarkable powers at that time, however, to a most reprehensible and unworthy purpose. Still, he maintained his fondness for standard literature, and was an insatiate reader of the best books and publications of the age, while he wrote and

published the worst. He had, moreover, good judgment in the selection of books and reading-matter, and possessed facilities for getting whatever he wanted. Wilkes had become attached to Broderick, saw in him the stuff of which leaders are made, and in his own quiet and insidious manner set to work upon his extraordinary self-imposed mission. He found in Broderick, in a general sense, an eager and willing pupil, and yet he was singularly perverse. The books most commended to his study, of history and the governing causes and events of the world, he cared least for, but he devoured everything that told him of conspicuous men, statesmen, and heroes, and those who moved or led peoples and empires, and he was also partial to Ainsworth's novels, "Fistiana," and the flash literature of that period, of which Professor Ingraham was the most popular and most fecund author. It did not take Wilkes long to discover that his pupil's nature and faculties were not of the mold and quality to be wrought or developed by books or study; that his power was with men, and his ambition was not in scholarship, but in the domain of action and strife in the busy world, and that it must be by his own indomitable will and insatiate desire for mastery, rather than by the exercise or strength of his intellectual faculties, that Broderick's place in life would be established.

But there was another besides Wilkes who more earnestly and more effectually labored to implant in Broderick the inclination to study wholesome and edifying books, and to impart to him the knowledge which he most required in the pursuit of the public life he had at that early period revealed as the aspiration and ambition of his soul. This was Townsend R. Harris, to whom Broderick had been introduced by Colonel Jonathan D. Stevenson, then conspicuous in New York politics, who had become somewhat impressed by Broderick's manner and action in the Tammany Hall Old Men's Committee, and taken much interest in his welfare. Harris was a gentleman of excellent family and superior intellectual mold, of scholarly habits, and profoundly versed in substantial literature. He succeeded with his difficult

subject better than Wilkes had, and yet only indifferently. Broderick visibly profited from his patient and admirable instruction; but Harris, the same as Wilkes, at last became convinced that it was the schooling of the world and not the learning of books which his pupil naturally preferred, and would readiest receive or absorb, and abandoned the self-imposed task so certain to prove almost futile. Still, it was from Harris's well-stocked library that Broderick derived the information which he utilized to good advantage in later years in this State, as to the books he stood most in need of in storing his mind with the useful knowledge which it was essential for him to acquire while on the grand high road to greater eminence he had so long marked out for himself.

There was one quality lacking, however, which Broderick could never secure, and of which he was painfully ambitious. There was in him nothing of the orator—he never could be one. Mike Walsh and Ned Strahan were the naturally-gifted speakers of the large popular element of Tammany Hall and the Democracy, of which the "Subterraneans" and the "Butt-enders" were the best organized and most formidable; and as Mike had his own *Subterranean* as the organ of his Spartan band, himself and his followers became a very considerable power in some of the wards. The "Butt-enders" were a more violent and boisterous element. Just coming into local prominence at that time was Bill Poole, whose tragic death more than twenty years ago was a leading topic throughout the land. Poole was a devoted friend of Broderick, and stood by him faithfully in his partisan contests. It was Mike Walsh's readiness of speech which enabled him to maintain the leadership of his Spartans, secure from any rival; but Broderick was nevertheless a leader in the active management of the organization, and through it he maintained his influence in the governing committees of Tammany Hall, in spite of the studied efforts of the more polished party managers to keep him out of their councils. Elijah F. Purdy was then the Chief Sachem of Tammany Society. He was of Knickerbocker stock, and preserved the dignity of the party leadership after the old-school model, which had

its practical method of so dispensing the large and rich public patronage which Tammany enjoyed, that the best-paying offices were apportioned to the "good families"; and to the class which Broderick represented were doled out the positions of hard service and less pay, such as lamp-lighters, watchmen (the Metropolitan Police system was not then in existence), and other similar humble employments. It was the firm determination of Broderick, and of the "Subterraneans" and "Butt-enders" and their sympathizers, to break down this ancient wall of caste distinction and discrimination, and to open the way for their own class to patronage, office, and preferment; and as this could be accomplished only by the possession of the places of power and control, he and his associates sedulously directed their movements to that end. In this they were encouraged and aided by the *Plebeian*, the new Democratic organ, conducted by Levi D. Slamm, who had sunk his *New Era* in the overwhelming defeat of Van Buren in 1840. Slamm and Alex Ming, Jr., were advanced "loco-focos," and Broderick stood with them.

CHAPTER II.

BRODERICK AND THE "SUBTERRANEANS"—MIKE WALSH —THE EMPIRE CLUB—BRODERICK'S DEFEAT FOR CONGRESS—HE LEAVES FOR CALIFORNIA.

The position Broderick enjoyed as foreman of Howard Engine Company, and as a Democratic ward-leader, had enabled him to acquire the influence he possessed during the administration of John Tyler; and the manner in which he exercised his authority and dispensed whatever of patronage or favor it was in his power to bestow or direct, proved that he was fitted for popular leadership, and that he held to the politician's sound rule of rewarding his friends, and thus taught his opponents the benefit to flow from his friendship, by distributing the spoils among his supporters, as the most effective means to swell the ranks of his followers. Mike Walsh divided with Broderick the popularity which gave them almost equal leadership, but he had neither Broderick's judgment, tact, nor tenacity of purpose. Instead of the indomitable will and invincible pertinacity in the pursuit of his object, which so strongly marked Broderick, Mike was, by fits and varying humors of mind and emotion, at times as stubborn as a mule, and then as yielding as a simpleton. His reckless writings for his *Subterranean* at last caused his conviction for a criminal libel on John Horspool, through the vigorous and relentless prosecution of James R. Whiting, the District Attorney, commonly known then as "Little Bitters," and Mike was sentenced to the penitentiary on Blackwell's Island for the term of six months. His conviction was unexpected. His sentence struck terror into the hearts of his Spartan band, and while in the Tombs awaiting removal to the Island poor Mike was the most wretched of men; dispirited, downcast, overwhelmed with rage and regret, pride and shame, remorse and despair. He even contemplated suicide, and was at last barely saved from drowning himself—while the small row-boat, used for conveying prisoners from the New

York side to the penitentiary, was taking him across the narrow channel—by Malachi Fallon, then the keeper of the Tombs prison, who had become aware of Mike's suicidal intention, and, therefore, personally superintended his conveyance from the Tombs to the penitentiary. He took Mike to the landing in a hack instead of sending him in the prison van, "Black Maria," and thence sat guarding him in the small boat, so that when Mike endeavored to leap overboard in the swiftest part of the channel current, he was promptly withheld from the self-murderous act by the vigilance of Mr. Fallon. The thoughtful and humane precaution saved Mike for an honored station in after years, but his end was scarcely less deplorable.

Upon the expiration of his term, his adherents and sympathizers got up a grand demonstration in honor to him. He was received at the landing, as he stepped from the prison boat, by a delegation of his admirers, placed in an open barouche drawn by six white horses, and in formidable procession, with bands of music, banners and devices flying, the long line marched in triumphal style through the principal streets of the city. Broderick bore a conspicuous part in the affair. Mike was exalted from his martyrdom into hero life, and subsequently was elected to the State Legislature, and afterward to Congress. It was in the Assembly at Albany that he made his notable response to an attack upon the New York delegation by a leading interior country member, that "it required a higher degree of intellectuality to cross Broadway in the day-time than it did to represent a country county in the Legislature." Thus from the brink of a suicide's grave, from the convict's garb and his prison cell, Mike Walsh eventually advanced to the chief law-making bodies of his State and the Republic as the peer of any in either.

Mike's extraordinary promotion in political life was not without its effect on Broderick, who had already become in some respects a more potential leader of the same element than even Subterranean Mike, and he had not to his record any stain or shame of conviction and imprisonment whatsoever. He had great advantage over Mike in other respects.

Mike was dissipated and prone to rowdyism. Broderick was neither dissipated nor dissolute. There was in him the instinctive fondness for excitement and rough play in which very many of the firemen of that period indulged; but in his composition there was nothing of the "rough," and in no aspect could he be classed among the "sporting-men," or the class known as the "b'hoys."

The death of Broderick's mother in 1842, and the killing of his only brother, Richard, two years after, by the bursting of a bomb-shell—which had been sold to a foundry on Charleton Street for old iron—while Dick, along with some other lads, was boring into it with a red-hot iron rod, supposing it to be perfectly harmless, had a marked effect on Broderick, and materially changed his nature, as it appeared, to a severe and serious manner of thought and action. Over the loss of his brother, whom he tenderly loved, and whose death left him absolutely alone in the world, so far as kin or consanguinity was concerned, Broderick seemed for months inconsolable. But his strong, rugged, tough nature recovered from the shock in time, although the memory of it forever after cast a gloom upon his life, and caused him to grow more sedate and grave in demeanor. It had struck at his heart-strings. The order of political power and control in the Democratic party was all the time undergoing material change in New York city, toward a more radical democratic administration of affairs in its machinery and management. The superior authority of the master minds of the great "Albany Regency," and of their local chiefs in New York city, had become greatly weakened from internal dissension and outside factional troubles; and in the city the power of Tammany was on the wane, so far as the foremost leaders of the ancient regime were concerned. The aristocratic element of the party, which had always ruled it to their own advantage, were obliged to yield before the aggressive demands of the Young Democracy; and Tammany Hall had been forced to so change its distinctive government as to admit to its councils also a Young Men's General Committee, which sat with powers similar to the Old Men's Gen-

eral Committee, in shaping party matters and providing for conventions and offices. Broderick was a prominent leader of this popular movement which fought for its fair share of the spoils of victory. Slamm's *Plebeian* favored the movement, and had been its organ. The *Morning News*, edited first by Parke Godwin, son-in-law of William Cullen Bryant, and subsequently by John L. O'Sullivan, with Samuel J. Tilden as a frequent contributor, was the organ of the old-school Democrats of wealth and standing, who always took good care that the patronage was a matter for their own dispensation and enjoyment. The richer *News* had absorbed the impecunious *Plebeian*, and that in turn died out to give place to the *True Sun*, and it to the *Globe*, with Caspar C. Childs, an old Tammany man, at its head, which at length became the organ of the Barnburners, and favored Van Buren for President in preference to General Cass, the regular nominee of the party. Broderick took active part with the Young Democracy, but stood firmly by the Old Hunkers, led by Marcy and Croswell, against the Barnburners, with Martin Van Buren himself, his famous son Prince John, Butler, Dix, and Cassidy to lead that wing, and he remained steadfast in the ranks of the Old Hunkers until he departed from the city to push his fortune in the gold-fields of California.

When the Native American movement broke forth in 1844, with its proscription of naturalized citizens and Roman Catholics, as well as its demand for the absolute prohibition of further emigration from Europe, but especially of Irish and Germans, Broderick fought it with all the vigor of his nature, and in his fierce antagonism had to encounter many of his former friends and comrades in the Fire Department, who had become zealous in that short-lived organization. In the Presidential campaign of that year between James K. Polk and Henry Clay, the element with which Broderick had so much to do in the Democratic party became singularly demonstrative. A kindred element had broken out in the Whig party, though in less forcible antagonism to the old "silk-stocking" leaders and the heads of the proud great families of "uppertendom," who had always

despotically governed that organization in New York, in the highest rank of which were J. Philips Phœnix, Hamilton Fish, Ogden Hoffman, Stephen Allen, Philip Hone, Moses H. Grinnell, John Duer, Luther Bradish, and the De Peysters, the Bensons, the Minturns, and the Ogdens.

These warring elements, from a party stand-point, had a common bond of interest in one aspect. It was to bring their own class into more favorable notice from the fountain-head whence party patronage was distributed, so that a much larger proportion than had been dispensed should fall to themselves in the event of the party's victory. On each side, Whig and Democratic, a club was organized, and these clubs were not long in making themselves notorious, if not famous. They were certainly very effective, and equally potential in the respective parties. The Empire Club was Democratic; the Knickerbocker Club was Whig. The headquarters of the two were on Park Row, with the old Park Theater the intervening building. Captain Isaiah Rynders was the President of the Empires, and on the club roll were a hundred or more noted in the lists of prize-ring "events," and to the rough "sporting" world. Nor was the Knickerbocker Club at all wanting in similar *personnel*. Tom Hyer had not then developed into the championship, which he long afterward achieved in his victory over Yankee Sullivan. Indeed, he had been defeated in a wild sort of ring-fight with Country McCluskey, a big, good-natured, knock-kneed bruiser of the period, and it was believed that he could never stand before Sullivan, who was then in his prime. Still, he was a great fighter, and one that very few dared to encounter. But Hyer was not the Knickerbocker's only formidable champion. Even more celebrated in fistic exploits was the "Boss," old Bill Harrington, the pride of Washington market; and next to him stood Abe Vanderzee, the victor of several prize-fights. Then followed Matt Goodison, Jo Plummer, Mose Cutler, and others, "scienced," and hard-hitters. But it was undeniable that in this fighting force the Empire Club was largely superior, in numbers as well as in fighters, and

among these were Johnny Austin, Hen Chanfrau, Manny Kelly, Bill Ford, and George Isaacs.

Jo Hoxie was yet the campaigning bard and balladist of the Whigs, and to "oversize" him the Empires had Walsh, the impromptu doggerel-singer; and, as composer, the celebrity known as George Washington Dixon, editor of the *Polyanthus*, a wizened, small, dandified, brazen mulatto. Dixon had a pitiful gift of senseless rhyming, and had progressed from the exaltation of having composed "Old Zip Coon," to rival Tom Rice's celebrated "Jim Crow," to the sublimity of candidacy for the Mayoralty of Boston, while barberizing there—the prank of some reckless practical jokers, who declared their intention of opening the eyes of the Abolitionists in that city of negro inequality, to "the nigger in the wood-pile," by making George their candidate on that occasion. But on this practical joke Dixon had exultingly reared the shaky fabric of his political grandeur for years after. The Empire Club was frequently utilized in the very exciting campaign between Polk and Clay, on behalf of the Democratic cause, by excursioning to the grand mass-meetings in cities and districts not too far remote from New York—to Jersey City, to Brooklyn, to popular gathering-places on Long Island, over in New Jersey, up the Hudson River; and the club once visited Philadelphia, to strike terror into the hearts of the Whigs of that loving city, and to correspondingly cheer the buoyant Democracy to still greater exertions for the national ticket.

On these occasions Broderick was generally an attendant, and he rarely failed to attract attention to his own band of devoted adherents and to himself. The renown of the engine-company foreman whose name stood in rank with that of the most famous in the fights of firemen, from Jim Jerolamon to De Witt Forshay, had long before reached these neighboring places, and "Dave" Broderick was even then one of the men of that type to challenge the admiration of the throng in other cities, and in the country alike. The election of James K. Polk and the two successive triumphs of the Democratic party in the city of New York, in 1845,

with Havemeyer as Mayor, and in 1846 with Andrew Mickle to the same office, brought so much patronage to the Democratic party, Federal and municipal, as to provide thousands with offices or employment in public capacity, although a considerable loss was sustained by the defeat of Governor Silas Wright for re-election the latter year, through defection in the Democratic ranks, which gave the election to John Young, the Whig candidate. At the same election, the first and only time he ran for an elective office, Broderick himself also suffered defeat from a similar cause. He had firmly stood by his party and the regular nominations, and he felt that he deserved to be similarly supported in any candidacy of his own. But he was not, and there is no question that it was because of that bitter defeat he then shaped his course, through which came the nobler ambition that in time inspired him, and which he finally accomplished.

Broderick held a good position in the Custom-house, but he aspired higher and in a different direction. He felt himself out of place in serving the servants of the people; he wished to be himself at once the favorite, the leader, and, by courtesy of usage of the term, the chosen servant himself of the people, directly by their own voice and votes. In the summer of 1846 President Polk visited New York. He came by way of the Camden and Amboy Railroad from Philadelphia, and the Common Council had made suitable arrangements for his reception. The fine steamboat *Cornelius Vanderbilt* was chartered for the round trip to South Amboy, there to take the President on board and bring him to the city, and on that boat were the distinguished guests and public dignitaries and prominent citizens. But Tammany Hall also chartered a steamboat, for the special purpose of sending a committee of forty—twenty from each of the General Committees—who were delegated to wait upon the President, to tender him the devotion of Tammany Hall, and to request that during his brief sojourn in the city he would honor Tammany with his presence on an evening of his own selection. Broderick was one of the committee of forty. William B. Maclay, the member of Congress from

New York, a man of distinguished family, and personally intimate with President Polk, was chosen by the committee as spokesman for the occasion.

The Tammany steamer reached South Amboy an hour before the *Vanderbilt*. The committee formed in line on the wharf and marched in procession to the mansion, a half-mile or more away, at which the President was awaiting the city Reception Committee. The body halted at the spacious lawn in front of the mansion. Broderick had manifested dissatisfaction with the arrangements and programme during the trip to South Amboy, and he bore strong dislike toward Maclay. His dress made him conspicuous. His black broadcloth suit and white vest were regular enough, but it was his hat which excited the ire or disdain of the more refined of the committee. At that time it was the custom to rank men who wore hats of the kind as "Helen Jewett mourners." The tragic story of the murder of Helen Jewett, by her lover, Richard P. Robinson—the "poor boy," as Ogden Hoffman, the great barrister who was his counsel, called him in court—many will remember; and as queer outcomes of the tragedy followed the "Robinson cap" and these "Helen Jewett mourner" hats. Yet the caricatures of that period always put just such a hat on the head of immortal "Old Hickory"—a white beaver hat, with a band of crape or bombazine half way up the crown. It was this hat which provoked the more scrupulous of the committee in respect to dress and general appearance on an occasion where dignity and deportment were so much to be considered, for President Polk was himself a gentleman of the ancient school. But Broderick was still more to try the patience and vex the dignity of the committee. He was suddenly missed from the lawn. Mr. Maclay had already prepared the committee for the order of the reception ceremony, and was about to proceed to the mansion to request the President's pleasure as to whether the scene should be upon the broad porch or upon the lawn. But before he had gone ten steps there appeared, to his dismay, and to the surprise as well as discomfiture of the committee, the President, upon the arm of Mr. Broderick, coming from

the spacious hall-way out upon the porch, the President uncovered, Broderick with his hat upon his head.

President Polk, escorted by David C. Broderick, came slowly down the steps from the porch upon the lawn, toward the place where the committee were standing, in little knots, discussing in low voice the amazing conduct of Broderick, and wondering what next, or what to do; and finally, at the motion of Broderick, the President halted. Then Broderick took off his hat, and in a strong, clear tone, more like a command than the notification it was intended for, in these very words signified to the committee what was expected of them: "Now, men, form a round circle, and the President will talk to you." It was the manner in which he was accustomed to give commands to his engine company at a fire. Mr. Maclay's telltale face at that moment was a subject for a painter. George H. Purser seemed in hesitancy whether to fall down or run away. But the sharp, quick, though pleasant, words from the cool and imperturbable James Beckett of the Fifth Ward—"Come, gentlemen, give attention to the President"—brought the members to a proper frame of mind, and President Polk immediately delivered one of those charming off-hand speeches, appropriate to the occasion, for which he was famous.

After the President's address, Broderick gave him his arm, and with another command to the committee to "form the line of march," he led off toward the wharf. It was useless to offer remonstrance, and no clear way was open to explain things to the President until the line halted on the wharf. The *Vanderbilt*, crowded with people, profusely decorated with flags, with a band of music playing, and cannon firing salutes, was just then rounding in to make the landing. And Mr. Maclay then chose his opportunity to explain to the President that that was the steamboat which he was expected to take to New York. Broderick had determined to have him conveyed by the steamboat chartered by Tammany. The matter was at last amicably and satisfactorily arranged according to the original programme.

A few months after came Broderick's sorest defeat and

crushing blow as a party leader in New York. That fall he aspired to Congress. The dignity of the more aristocratic portion of Tammany Hall was offended by Broderick's masterful spirit, and his contempt of their superior worldly and social position, which he preferred to display rather than to conceal. They were determined to break him down, even at the sacrifice of their party's local success. Broderick got the nomination for Congress in spite of them in his district. The district was Democratic. The Whigs put forward as their candidate Fred. A. Tallmadge, of eminent Whig and aristocratic family. Broderick could have defeated him in a square contest. But the disgusted old-fogy and dignity factions of the Democratic party put up against him, on an opposition ticket, "Jack" Bloodgood, as he was familiarly known, a man of ancient Knickerbocker stock, and good family—a lawyer of fair reputation, but of gross nature, and not very temperate habits. The result was the election of Tallmadge. Broderick was enraged; his adherents were disgusted and incensed, and threatened party vengeance. Yet it was that event which at last prompted Broderick, when the California gold-discovery fever raged, to shake the dust of the city from his feet, and to depart for the new El Dorado of his own political future, as well as of wealth, resolved at the time, as he declared himself, never to return to it until he should come as a Senator of the United States.

CHAPTER III.

BRODERICK IN CALIFORNIA—HIS ELECTION TO THE STATE SENATE—HIS ENCOUNTER WITH MOORE, THE "FIRE-EATER"—HIS CANDIDACY FOR THE SENATE OF THE UNITED STATES.

With the resolution in his heart that he would never return to the East until he should come as a Senator of the United States, David C. Broderick left New York late in the spring of 1849, and took the Isthmus route to California. He arrived in San Francisco in the early summer of that year. His old friend in Tammany Hall, Colonel Jonathan D. Stevenson, late commander of the regiment of California volunteers, who had been in California since 1847, was at the time one of the foremost men in San Francisco, and among the wealthiest and most influential. He received Broderick with old-time cordiality and warmth. Another conspicuous member of the New York Fire Department, Frederick D. Kohler, and also a warm friend of Broderick, had preceded him to the Golden Land. Kohler was a manufacturing jeweler, an artificer in the precious metals, and had fair experience as an assayer. The want of gold coin was, at that time, very much felt in San Francisco, among business men especially, as gold-dust was the only substitute for currency in daily transactions, large and small. Some parties had consulted with Colonel Stevenson about the feasibility and propriety of coining gold pieces to supply this public want, as it was next to impossible to procure gold coin from the United States in less than from four to five months, and the want was immediate, and every day growing worse. Two of these parties were English gentlemen of large capital, and both were versed in the assaying of gold and silver. Colonel Stevenson heartily approved the proposition, and engaged to look up competent persons to embark in the enterprise. He picked upon Kohler, and, at the same time, bethought himself of Broderick, in connection with the matter. Kohler was subjected to a rigid examination in

assaying, and passed the ordeal so creditably, that the Englishmen expressed their satisfaction with him at once. Colonel Stevenson then called upon Broderick. He had arrived from New York sick, greatly broken down in physique, and nearly penniless. Yet he declared his confidence in his ability to perform the hard manual labor required as assistant to Kohler, and leaped at the opportunity of employment. He was, in fact, eager to try his hand at anything; as it was then the custom of so many others, who had not been bred to any trade, as he was, to do. But the business required money, and neither Kohler nor Broderick had this essential starter. This want did not long stand in the way. Colonel Stevenson loaned Broderick $3,500, and the two, entering into copartnership, then commenced the business of coining five-dollar and ten-dollar gold pieces, worth, in fact, four and eight dollars respectively, to supply the trade requirements of the city. Gold-dust was bought at $14 per ounce, and the profits were enormous. Kohler and Broderick were on the high road to riches. The partners continued in the business until early in December, 1849, when they sold out to Baldwin, who carried it on—they for awhile doing his coining—and the manufacture of $20 pieces was then first engaged in, though with less profit than they had made on the $10 pieces.

Nathaniel Bennett and Gabriel D. Post had been elected at the first embryo State election in November, 1849, as the two State Senators to which San Francisco County was entitled under the apportionment of the Constitution framed at Monterey in October. Early in the first session of the Legislature, Senator Bennett resigned that position and was chosen Chief-Justice of the State Supreme Court. To fill the vacancy, the Democrats of the city selected Mr. Broderick as their candidate. His opponent for the nomination was John A. McGlynn, also a New Yorker, a native of Ireland, and a citizen by adoption, who was subsequently elected as the first Recorder of San Francisco. Party lines were not then very strictly drawn, and candidacy was a matter more of State or local consideration, as to the portion of the

Union the candidate had emigrated from, than of politics, whether Democratic or Whig, although the Democrats were, unquestionably, largely predominant in numbers. There were a great many Southern and Western men in San Francisco, and Boston, Philadelphia, and Baltimore were numerously represented; but the New Yorkers and those who favored that element, were equally formidable in the aggregate, and they were far-better organized and better versed in partisan tactics than any other class.

Of the large numbers of New Yorkers then in San Francisco, many had been either very much opposed to Broderick at home, or were averse to him as a man and politician. But in the new El Dorado, these old prejudices and hatreds were dropped or forgotten; and he had, during his residence in the city, converted some of them into his earnest friends. At the primary election, which was held in the lower portion of the Ward House on Clay Street, then the most popular resort in the city—for the Parker House had been destroyed by the first great fire of December 24th—Broderick was preferred by a very large majority; and among those who worked hardest for him was William Shear, who had, in New York, always fought against him as fireman and politician. McGlynn took his defeat in thorough good part, and at the election, on the 8th of January, worked vigorously for Broderick's success, which was simply overwhelming. He took his seat in the Senate January 24th, 1850. After that entry upon public life in California, Broderick never ceased to be active in politics, and became more and more, every year, conspicuous among the most prominent of public men and party leaders, until his sad and untimely death.

More than a month before he had taken his seat in the State Senate, the Legislature had chosen the two United States Senators, John C. Fremont and William M. Gwin, and the business of the session was little more than the passage of laws to set the new State government in motion. In the drawing for long and short terms, after the admission of California into the Union, Senator Gwin drew the long term, to expire March 3rd, 1855, and Senator Fremont the

short term, to expire March 3rd, 1851. This classification of the Senators in the Senate devolved upon the Legislature of 1851 the election of a successor to Fremont. By virtue of his office of Lieutenant-Governor, John McDougal was President of the Senate. The resignation of Governor Peter H. Burnett promoted McDougal to the gubernatorial office, and the Senate of 1851 was called upon to choose a presiding officer. Benjamin S. Lippincott, of Tuolumne, was among the Senators first elected, and aspired to the place, but he was easily beaten for it by Broderick, who thereupon filled the office during the second session of the State Legislature. Elcan Heydenfeldt, a Whig, had meantime been elected to the Senate to succeed Gabriel D. Post. The Legislature met at San José, January 6th, 1851, and adjourned May 1st of the same year. During the session one hundred and forty-two ineffectual ballots were cast for United States Senator, and the end was no election. Fremont had at first announced himself as a candidate for re-election, and set up a "free ranch" in San José, where his supporters and the public were plentifully supplied with "refreshments," after the fashion of the period. But he was not long in learning that his election was hopeless, and retired from the field. The candidates were, on the Democratic side, Solomon Heydenfeldt, John B. Weller, and John W. Geary, then Mayor of San Francisco. On the Whig side, Thomas Butler King, formerly of Georgia, and then Collector of this port, under President Fillmore, and ex-Collector Collier, King's predecessor in the office, who had been appointed by President Taylor. The vote, generally, stood—Heydenfeldt, 16; King, 17; Geary, 4; Weller, 3; Collier, 2. Broderick voted steadily for Geary.

As the members finally became convinced that no election could be had, the voting ceased, and the Democrats felt convinced that the next general election would give them the Legislature beyond question. It was at that session of the Legislature that the celebrated Water Lot Bill passed, which gave to the city of San Francisco the property along the city front, which has since become of immense value,

and it was by ownership of a large area of that property that Broderick acquired the wealth of which he died possessed. Also at that Legislature was passed the bill to remove the seat of government from San José to Vallejo. And it was that body which earned for itself the questionable distinction of "The Legislature of a Thousand Drinks." But Broderick was neither involved in the jobbery or the State Capital bill, nor were his habits such as to reflect upon him any of the responsibility for the bibulous appellation. He held aloof from all schemes of doubtful character, and never indulged in the general dissipation of the day. He was temperate in his simple mode of life, sedulous in his performance of official duties, and devoted much of his spare time to storing his mind from books best adapted to the studies he then determined to acquire in his quest after the branches of knowledge suitable for statesmanship. He had been admitted to the Bar by the Supreme Court of the State, and was still a laborious student of the law. And he constantly added, to a library already fairly large, valuable, and carefully selected, such books as he could procure of every field of profound study and standard literature. Resolved upon this self-education, he made the task as onerous and severe as are the pious duties which the most austere of monks impose upon themselves. Yet he was not an ascetic, and by no means a recluse. It was upon the great stage of moving, active, conspicuous life that he felt his part must be cast, with men of brain and power as his fellows and his combatants, and to accustom himself to this great part, and learn the various natures and note the different customs and habits of the men most prominent in the community, were his constant study and endeavor.

In New York, Broderick had witnessed the sagacious management of the eminent statesmen who composed the Albany Regency, during its reign of power the most potential and most intellectual body of master-minds and party leaders that ever presided over the destiny of any American State, or guided the affairs of any political party in the Union, since the period of Jefferson and

Hamilton. But he was not of the element permitted to associate with that mighty and dignified coterie. He had watched and learned, if he had not mastered, the methods and management of the powerful Tammany, and had commingled with the leaders below the highest grade in social place and political distinguishment, so as to possess himself of their unparalleled craft, and acquire their methods of action. He knew New York, the New Yorkers of his own class in life; and none knew better the feelings and impulses of the firemen, or stood in higher estimation among them. He knew how to manage the populace. But he was now in a new and anomalous situation, in a community the like of which had never been seen in any land, and is not likely ever again to be seen. California was then made up of crowds of gold-hunters. It was not "society," as the term is understood. It was as the sudden precipitation of concordant and discordant manhood of every race and nation, creed and humor, belief and fancy, habit and custom, opposite and incongruous, with barely the ligaments of homogeneity to bind them in social habitude, and with no other process of attrition to mold them into conventional conformity than that of incidental contact, or the extraordinary jostling of strange peoples, and the forced or invited association of different nationalities or sections.

Here were hundreds of men, disappointed in the hunt for gold because it required manual labor to dig it from the earth, or unsuccessful in other pursuits, who sought to make their way in life by politics, and above these were practiced stagers in public employment, and the smaller number who had occupied more or less distinguished positions in the States they had left, and pushed their way to California to be returned as Senators or Representatives in Congress, or to find here other official stations by which to make themselves rich as well as potent in the State.

To encounter, cope with, and either win men to his own support, or else overcome them, was Broderick's new and zealous study. An episode in his career, during the second session of the Legislature at San José, at once severely tried

his nature and had the happy effect to win to him firmer friends, and the kind of fame that served him materially in his subsequent pathway to the United States Senate. Among the Whig members of the Legislature was Ben F. Moore of Tuolumne. He was an Alabamian, tall, gaunt, of dark complexion, and with a reputation for fierce courage. He had distinguished himself as a desperate, reckless fighter in the field in the war with Mexico, and was regarded as the gamest of "fire-eaters." Between Moore and Broderick there could have been no congeniality; there was none. Moore naturally despised the New Yorker, and Broderick felt unspeakable disdain toward the Alabama "chiv." A slight cause for hostile meeting one day animated Moore to accost Broderick as the two met on the narrow plank-way that was laid between the Mansion House and the old adobe building in which the Legislature assembled, in a lonely spot yards away from any house, with only two or three persons near by. Suddenly Moore drew a pistol. At the instant Broderick assumed a bolder front; gave his assailant a look of scornful ire, and with his teeth clenched, in his peculiarly bitter manner of defiant speech, thus dared him: "Shoot, you ——— assassin—shoot! I am unarmed." Moore did not shoot. He was too game and too gallant to shoot an unarmed adversary, and the two at once separated, with the *éclat* of the extraordinary meeting entirely to the account of Broderick. He and Moore subsequently became friends, but while the consequence of the ugly encounter greatly tended to Broderick's advancement in the leadership he aspired to, the ill-effect of it was never escaped by Moore, who was naturally a good-natured, kind-hearted man, but somewhat petulant, hasty, and reckless under provocation or excitement.

The event caused the New Yorkers to rally to Broderick with greater pride than ever, and his admirers became his devotees. Deadly weapons were never the "tools" used by New York firemen in their free fights, and it was specially gratifying to the many of them at that time in California, whether they had been his friends or his foes in New York, to learn

that when brought face to face with a "chiv" who was "on the shoot," he had bravely stood his ground and come off the victor without blood-spilling. But Broderick was never the man to "back down" from a fight.

Broderick's term as State Senator expired with the second session. The third session convened at Vallejo, January 5th, 1852, but for want of accommodation the body removed to Sacramento, January 12th. In that city, January 30th, John B. Weller was chosen United States Senator. Broderick was among the candidates before the Democratic caucus, but was unsuccessful. The Whig candidate in Legislative Joint Convention, against Weller, was Major Pearson B. Reading, who had been the defeated candidate for Governor in 1851, against John Bigler. Weller's term expired March 3rd, 1857, and the term Senator Gwin was then filling would be the first to expire, two years sooner. For the succession to Gwin's place Broderick set his plans, and then, therefore, began the long and singularly eventful contest between the two and their respective followers, which has passed into familiar California political history, as the "Broderick and Gwin fight."

CHAPTER IV.

BRODERICK'S PURSUIT OF THE SENATORSHIP—WILLIAM M. GWIN—BATTLE OF THE GIANTS—THEIR DIFFERENT NATURES.

Broderick's opportunity to make himself the successor of Gwin in the Senate of the United States, now entirely possessed him. He schemed and struggled for it by day and by night, ceaselessly, without scruple as to means, and with an energy that would have exhausted a less robust and less indomitable nature. Weller had beaten him; he was resolved that Gwin should not, if there was power that could be brought, no matter how, to prevent it. He was well aware that it was a desperate adventure upon the deep waters of political enterprise, and knew that many and towering difficulties must be encountered and overborne; that failure in any important particular would be ruin to all his hopes; and that opposed to him stood not only the then formidable wall of the Southern Whig vote, but the large proportion of the Democratic party, led by distinguished men who had won distinction as worthy leaders in the States they had left to embark upon a new destiny in the Golden State. But he counted all the difficulties, resolved to take all the risks, and with the unalterable determination to gain the goal of his consuming ambition, or to die while trying, he formed his crude plans and proceeded to their accomplishment. At the very outset he alike intemperately rushed and terribly blundered into personal difficulties which a better-regulated temper, or fair degree of prudence, would have caused him to avoid. His course had raised up against him in San Francisco a very hostile feeling within the Democratic party, and in the primary elections this sentiment had triumphed during the session of the Legislature. The defeat of his faction, and in so far of his scheme, impelled him to use violent language in relation to ex-Governor Smith, of Virginia, a conspicuous leader of the dominant wing, which nothing could justify; nor could he retract it without something of self-

dishonor and the taint of cowardice—which alone would be fatal to his Senatorial aspirations.

The very imprudent personal and partisan reflections which he cast upon some who had voted for or favored the passage of the San Francisco Water Lot Bill, in the preceding Legislature of 1851, brought on an acrimonious reopening of the subject in the session of 1852, out of which sprang envenomed personal altercations, and one duel, fought between two of the conspicuous opponents involved in the matter; and Broderick's general course throughout that session was neither politic nor fairly defensible. He was singularly indiscreet and badly worsted in an encounter he provoked with Colonel James Freaner, the famous "Mustang" correspondent of the New Orleans *Delta* during the Mexican war, who had embarked in constructing a road from Red Bluff through to the Shasta country, then very sparsely settled, but known to be rich in gold mines. Freaner had very properly obtained State aid, by due legislation, for the road, and Broderick denounced it as a corrupt job. One day the two were in a drinking-saloon near the building occupied as the State-house in Sacramento, and after some words Broderick caught Freaner by his long beard, and in an instant they clinched. Freaner proved himself the better man in the fight, and dealt the finishing blow with a tumbler, hitting Broderick full upon the cheek, cutting an ugly gash which left a scar that ever after disfigured his face.

The Democratic State Convention was held at Sacramento in February, while the Legislature was in session. Broderick's San Francisco delegation, led by Judge Alex Wells and Edmund Randolph, was rejected, and the opposing delegation admitted, under the leadership of ex-Governor Smith of Virginia and Solomon Heydenfeldt, with Jacob R. Snyder, John W. Dwinelle, Nathaniel Holland, A. C. Peachy, Colonel John C. Hays, Ferd. C. Ewer, James Donahue, John Middleton, Stephen R. Harris, Peabody A. Morse, and other prominent citizens, as associates.

The defeat stung Broderick, and he rushed into further indiscretions. One of the immediate consequences of this

was his duel with Judge Caleb E. Smith, son of ex-Governor Smith, March 17th, across the bay, in which his watch in his fob-pocket saved him from a wound that would have undoubtedly proved fatal. Before the close of the session Broderick withdrew the offensive remarks he had made in relation to Governor Smith in full Senate, and that session closed his legislative career in California. His next leap was to the Senate of the United States. It was to that mount, that consummation, he dedicated his life; and never did he cease or allow himself to be diverted from the intense pursuit of that all-absorbing object. But he felt and realized that he had before him almost super-human toil and trouble; that the adversary whom he had set out to overcome was the most formidable in the State in every aspect—the most sagacious and the most powerful at Washington, the most influential in California; and that he was so impregnably fortified in the organization of the Democratic party of that period, within the State and without, in the places of power, that to succeed over him the organization itself would have to be very nearly revolutionized in sentiment as well as in *personnel*.

Tammany tactics, of which Broderick was a bold and by no means scrupulous master, could not prevail against the more popular methods of party management to which Senator Gwin had been bred, and in which he stood without a peer in California. Nor was Broderick so versed as Gwin in the higher and more dignified walks of political life, wherein craft was improved into finesse, and the grace of polished manners softened the asperity of the means which prostrated its object.

A native of Tennessee, the son of a Methodist clergyman who had won the life-long friendship and gratitude of General Andrew Jackson, William Mackendree Gwin had embarked in political life at a comparatively early age. Born in 1805, educated for the medical profession, he resolved, in the bloom of manhood, to devote himself instead to public life. Secure in the estimation of Jackson, then President, his entrance upon this chosen field was uncommonly auspi-

cious and flattering. Before he was thirty years of age his illustrious patron appointed him United States Marshal of Mississippi, an office of great responsibility in those days. The appointment caused a good deal of angry feeling throughout the State, because the appointee was not a Mississippian, but had been preferred to a citizen of that State. With any other than "Old Hickory" in the presidential chair the indignation of the Mississippians might have forced a change of appointment, but the old hero had resolved to give good token of his grateful friendship to Gwin's father, and to satisfy the son himself of his earnest concern for his future career, and therefore the "imported incumbent," as some called the new Marshal, maintained his position. In it he distinguished himself, and in the "Shocco Jones" affair—in which that brazen adventurer had thoroughly imposed upon the famous Sargent S. Prentiss, of Northern birth and Southern heart—he won the applause of Whigs and Democrats alike. During his long term of office as United States Marshal, Dr. Gwin became conspicuous among the many superior and eminent men of Mississippi. He was the intimate friend of Robert J. Walker, and was elected in 1840 to represent the State in Congress. During the administration of President Polk he was appointed Commissioner to superintend the building of the Custom-house at New Orleans, but upon the news of the gold discovery in California he resigned that position to make his way to the golden land.

Dr. Gwin, similarly with Broderick, had departed from the State he left bent upon representing the new State of California in the Senate of the United States; but in the case of Dr. Gwin, different from that of Broderick, his acknowledged superiority for the exalted station was so generally manifested upon his arrival here by all who knew him, or looked upon him, that his election followed as a matter of course when the Legislature was called to act in choosing Senators. Nature had lavished her bounties with unstinted hand upon Dr. Gwin, in the grandeur of his exterior, and in the magnificence of his person. Fully six foot two inches in stature, erect and stately, of herculean figure,

perfect in its proportions, and with a carriage and bearing commensurate, he stood among the multitude as one born to be a leader of men, and at once to command their homage and extort their admiration. His massive head was covered, full from the bold high brow to the neck, with a heavy growth of hair of iron-gray and lustrous fiber, worn in a manner to impart greater majesty of appearance; from beneath his strong brows shone forth great eyes of luminous gray, grand in their play of action; and the large nose, large and firm-set mouth, and strongly-molded chin, with the whole face cleanly shaven, made up a *tout ensemble* matchless in manhood's mature prime. Grandly as nature had wrought the external man, also in the attributes and faculties which distinguish the superior types of manhood had she endowed this favorite of her bounty. His advantages and opportunities in the highway of prosperous and commanding public life were such as had fallen to the lot of very few.

To have started upon such a career with the friendship and indorsement of Andrew Jackson was of itself alone as an exhaustless fund upon which to draw without limit where Democracy ruled, and Dr. Gwin had, from the outset of his career, possessed this most precious passport to political favor and public station. In Mississippi he had enjoyed the intimacy, or congenial association, of brilliant and eminent public men who made that State famous in the Union, and in Washington he was very favorably known among the foremost in statesmanship. Accustomed to official station—practiced in the arts which win friends in the upper walks of life, and at the same time skilled in swaying the populace, as he was—had all other things been equal between the two as rivals and adversaries, Gwin stood the superior to Broderick; but in the fortuitous quality of personal appearance—although Broderick was also a man of more than ordinary impressment—the great representative of the Southern element immeasurably overtopped the acknowledged embodiment of the Tammany school of the Northern Democracy. The two might be likened unto the respective monarchs of

their distinctive sections—Broderick as the polar bear of the inhospitable ice-floes, and Gwin as the huge grizzly of the enduring mountain range. In the pursuit of partisan plans and in the accomplishment of their personal objects of party character, by reason of their widely different natures and training, Broderick and Gwin used broadly diverse and unlike means.

When effectively organized, the Tammany order of party structure is the most thorough that the ingenuity of man ever devised, inasmuch as it proceeds from the foundation upward, in perfect harmony of design and without deviation in any degree to the very top. All this is done to such purpose that, while it springs from the people and never ceases to be their representative power, at the zenith stands the one all-powerful head that absolutely controls the entire fabric. Thus, from the popular body come the primary meetings, which are as the planting of the seed, and from that stage of party action all above it and belonging to it must regularly proceed. It is the simple, natural process of planting acorns to grow oak-trees, of seeding with wheat to raise wheat—the product must inevitably be of the kind with the seed or plant.

In the South, as in nearly all the States, except New York, the Tammany system was not in vogue at the time of the gold discovery in California, and hence neither Gwin nor the mass of the Democrats in the State were versed in or accustomed to it. In fact, they were generally averse to it. But it was a first consideration of Broderick, in his struggle for a seat in the United States Senate, to institute the Tammany system of organization in every county where he could get foothold. This was his initial plan, on which to base his fight against Gwin, and it was sagaciously determined; for had he succeeded in it, no power within the Democratic party, then in the supremacy, could have stood against him as its arbitrary chief. Gwin chose, in some portions of the State, to accept the gage of battle, and to fight Broderick with the party tactics of his own Tammany order; but his main plan of action was that to which he had always been

accustomed—the old-fashioned, popular mode of organizing and prosecuting party campaigns, and the mode generally adhered to in the West and the South—that of unrestricted and untutored action on every fresh occasion, without partisan machinery, and, in the common parlance, "free and aboveboard." To this popular method of managing party affairs throughout the State, Dr. Gwin never failed to supplement his own marvelous skill and efficiency in what is known as "still-hunting."

Popular oratory was not Gwin's forte, no more than it was Broderick's. Neither of them possessed that fluency of speech and happy, off-hand address which charm, divert, and sway multitudes. The two were alike in the one quality of prevailing with those who were the popular leaders of the multitude by their own superior powers of personal magnetism or persuasion; but yet they were as different as darkness and light in their respective manner of thus prevailing with men. Broderick was so entirely immersed in his own plans, and so completely absorbed by his own ambition, that he was irascible in his impatient requirement upon all whom he sought as his aids or adherents, and frequently repelled the very men he most needed. He was naturally of an overbearing, domineering disposition, and this had grown upon him in his New York career as one of the master-spirits of the Fire Department, and in Tammany Hall. In his fierce zeal or hot wrath, because of temporary disappointments, or occasional disagreements with even his own devoted followers, he would explode a torrent of harsh invective, or give vent to vehement imprecation and foul abuse. His most difficult struggle was to master himself, and the failure to do this sometimes cost him and lost him the men whom he most wished to secure and to retain as friends and supporters. In all these personal qualities Gwin was the opposite of Broderick. No man had better self-control. He was the cautious master of many men of master minds, but he was always the most cautious master of his own strong, vigorous, sometimes grandly violent nature; and he never allowed any, whether friend or foe, to depart from his presence with the

rankling feeling of an ill-natured word, or sense of wrong from any cause, unless he had deliberately determined upon such a course, and meant not to be misunderstood. He looked a great man; his life had been in intimate relations with the greatest in the land, and he was in leading respects, beyond question of rivalry, the greatest who challenged the suffrages, and the confidence of the predominant party in California.

The larger proportion of the men of Southern birth and sentiment favored him in preference to any other. Most of the Western men, led mainly by Colonel Tom Henley, the "war-horse" of the Democracy, supported him; and among the New York Democrats, and those from other Northern States, many of them merchants and men of wealth, he had a very formidable following. Broderick's chief strength was in San Francisco. Here he had succeeded in planting his Tammany system of organization, and he controlled it. But it was not even here the controlling wing. The same class that has been most faithful to his memory since his untimely death, were then almost his only supporters, and while they were the most active in the party organization, the anti-Broderick wing was the most formidable in numbers and influence here and throughout the State. Still he was assiduously teaching active and aspiring men in every county the tactics by which, while helping himself as the chief organizer, they were certain at last also to promote their own individual interests; and where persuasion failed, he had no scruples in obtaining supporters and aids by other means. He never allowed any obstacle to stand between himself and his object, so long as he could employ the arts to remove or surmount it. He never shrank from the rule, never hesitated to apply it. To win was the invincible determination; by what means to win was a question to be decided as the occasion occurred. Hence, against the tremendous odds he found opposed to him, he was prompted to a plan to come sharply to the ambition of his soul, in defiance of the opposition. It was a deep and subtle scheme, at once crafty and bold, daring and desperate. It was in the face of

all past usage, abhorrent to the popular sentiment. It struck at the sanctity of all precedent; it was, in a measure, revolutionary. It never had example; it is still without parallel. Politically, it convulsed the State. It created consternation here, and was the cause of eager speculation at Washington. Throughout the Union the protracted struggle was viewed with various emotions of curiosity and alarm.

CHAPTER V.

PIERCE'S ADMINISTRATION — McCORKLE AND LATHAM — GWIN'S DUEL WITH McCORKLE—BRODERICK AND THE CUSTOM-HOUSE—HIS SCHEME BROACHED.

The election of Franklin Pierce as President of the United States was in no sense advantageous to Broderick's struggle for the succession to Dr. Gwin's seat in the Senate of the United States. It was the very reverse, except in so far as his Administration might promote the general welfare of the Democratic party in California, and should give greater strength to the organization, for Broderick was not then known at all in national aspect, had no influence outside of the State, had no standing at Washington, and was as much a stranger to President Pierce, and to those high in power in the Government, as any other merely locally-known politician in the land. In fact, all the influences at Washington were counter to his hopes and desires; and the official representatives of the State, and the Democracy at the Federal capital, were, if not actually inimical, either unfriendly or lukewarm toward him. Senator Weller was as much opposed to him personally as Senator Gwin, and although he had not the direct cause to antagonize Broderick's movements that Gwin had, as his adversary for another term in the Senate, he felt that his own future success in party leadership required that Broderick should not rise to a commanding position. Hence, as between Broderick and Gwin, Senator Weller and his party friends altogether preferred that Gwin should be his own successor in the Senate. With the Congress which expired March 3rd, 1853, Colonel E. C. Marshall and Joseph W. McCorkle ceased to be representatives in Congress from California, and were succeeded by General James A. McDougall and Milton S. Latham.

Between McCorkle and Latham there was a feud of intense and uncompromising nature. On McCorkle's part it was implacable and somewhat vindictive. The trouble had originated in political matters—mainly in that phase through

Latham's candidacy for the succession to the seat filled by McCorkle in Congress, when, as the latter had been led to suppose, Latham was his foremost friend and supporter, but had secured the prize for himself while McCorkle was at Washington attending to his duties as Representative, and could not be present at the State Convention when the nominations for Congress were made; but above and beyond this, there followed Latham's election a more galling and mortifying disappointment and defeat to McCorkle, in a matter wherein men never reason or forgive. It was an affair of the heart, and changed the whole current and tenor of the lives of the two men. McCorkle had been preferred, and he loved with all the ardor of his strong and rugged nature. His very fate was involved in the intensity of his admiration, and his adoration was of a fervor that never comes but once in a man's life-time. Yet, almost at the moment of his own highest confidence in the realization of his absorbing devotion and fondest triumph, the lacerating and maddening knowledge came as a blasting shock to overcome him, that the hated rival who had just supplanted him in the popular estimation of the Democracy of the State, had also laid siege to and won the far more precious prize, and that the happiness which he had until then accounted as his own to possess and to enjoy was to be the reward of the man whom he most distrusted, and had now learned to hate with all the fury of his fiercest passion, and all the might of his proud and manly spirit. Latham bore away the prize, and as the most joyous of the winners of the "double-first" of high and honorable position in public life and of the fondest fortune possible to man, he took his departure for Washington in the most felicitous frame of mind that ever imbued or inspired the most successful of wranglers in life's grandest university, leaving to his defeated rival the unsatisfactory power only to silently submit to the destiny thus precipitated upon him, and to live, that his invincible hatred might yet find opportunity to prove its steadfastness and strength.

McCorkle had also quarreled with Senator Gwin, and this was wholly political and personal. It had its culmination in

a duel, with rifles, in what is now San Mateo County, near the San Francisco boundary line, on the morning of June 1st, 1853. The two fought at thirty paces, to stand back to back, wheel and fire; and, after three ineffectual shots, the seconds managed to arrange a mutually satisfactory settlement of the cause of quarrel; although the feeling toward each other, which had existed before the hostile meeting, continued to exist after it, in respect to partisan and personal antipathies. It was a settlement more than a reconciliation.

Whatever influence the outgoing Representatives then had with the administration of President Pierce was more favorable to Broderick's partisan adversaries than to himself or his friends, and as McDougall had already determined to make his own way to the Senate at the expiration of his two years in the House, if he could, all of his power in controlling or dispensing Federal patronage in the State was directed to his own advancement. A native of the State of New York, but hailing rather from Illinois, and as a Western man, he associated and acted more with Democrats from that section of the Union than with the New York element of Broderick's stamp. He thus sought further to ingratiate himself with Western men, and, at the same time, to conciliate and win to his side Southern following, which should enable him to cope with Gwin for the ascendency at the senatorial election in the Legislature of 1855.

Latham, like Senator Weller, was from Ohio, but he had lived in the South, and his sympathies were professedly with that section. But he was young and had plenty of years yet before him, and the Senate—an aspiration with which he was not at that time credited. He had "gone over" to the Broderick side in the State Convention of 1852 to nominate Presidential Electors, to the amazement and chagrin of many of his supporters and the anti-Broderick element, but he had so far regained the confidence of that dominant wing of the Democracy in the succeeding convention to nominate candidates for Congress, as to triumph over McCorkle, an Ohio man in full accord with the Western element of the party, and secure the coveted prize. The appointments of

Federal positions in California, under President Pierce, were dispensed almost exclusively at the instance and by the concurrence of Senators Gwin and Weller, except in the most important office of the whole lot—that of Collector of the Port of San Francisco. President Pierce had served in the war with Mexico, as Brigadier-General, with great distinction, and had there formed the intimate acquaintance of Richard P. Hammond, a Captain and brevet Major in the regular army, who had likewise distinguished himself in the field. He also knew and entertained the warmest friendship for Colonel John C. Hays, famous for his heroic exploits at the head of his Texan Rangers. Major Hammond had embarked in political life in California, and was elected to the Assembly from San Joaquin. Chosen Speaker of the House at the session of 1852, and suddenly promoted to prominent position in party leadership, he was barely beaten for the nomination for Congress by General McDougall in the Democratic State Convention of 1852. The misfortune of breaking his leg a few days before the Convention, and the murder by the Pitt River Indians of the Shasta delegation to the Convention—which was headed by his devoted friend, Colonel James Freaner, who had badly worsted Broderick in the personal encounter the preceding winter in Sacramento—caused Hammond's defeat for the nomination.

At the time of Pierce's inauguration, Major Hammond and Colonel Hays went on to Washington; the one an applicant for the Collectorship of San Francisco, and the other for the office of Surveyor-General. Against the two, for these positions, no other aspirants had any chance with the President, and they were, accordingly, appointed. Collector Hammond succeeded Beverley C. Sanders, the Whig appointed under President Fillmore, and he made almost a complete change in the subordinate positions in the Custom-house.

Although Major Hammond recognized Broderick as one of the Democratic leaders of the State, he was strongly opposed to him for Senator, and his sentiments and partisan preferences were in general accord with the wing of the party which mainly supported the leadership of Dr. Gwin.

Hence, in the dispensation of patronage in the Custom-house, as Collector, Hammond favored that commonly known as the Southern element. Broderick called upon him to ascertain his intention concerning the distribution of places in his gift. Major Hammond frankly told him that, while the larger portion should be awarded to his own and the friends of the Administration, still, any claims that Mr. Broderick and all other Democrats should set forth would be duly and fairly considered; that he proposed to so dispense the offices and patronage subject to his authority as to leave no reasonable cause for complaint or animadversion; and that, accordingly, if Mr. Broderick should submit the names of some of his friends for place in the Custom-house, appointments would be given them. Broderick expressed himself satisfied with this proposition, and subsequently presented the names of eight of his supporters, to whom places were duly appointed. But in a little while he protested against what he considered the unequal distribution of the Custom-house patronage, and as his demands for other appointments were not acceded to, he became outspoken in his denunciation of the injustice and discrimination which he asserted were practiced against himself and his followers; and eventually, in his fierce wrath at this, he denounced the Custom-house as the "Virginia Poor-house," and raised the potent sectional cry that it was an issue of the Southern "chivs" against the "plebeians" of the North. Color was given to his denunciations and invective from the apparent fact that the larger proportion of the Federal offices, superior and subordinate, were filled by men of Southern birth or sympathy, or by Western Democrats. It is proper to explain, however, that President Pierce entertained the greatest regard for the veterans who served in the Mexican war, and, as it happened that that war had been fought mainly by volunteers from the South and West, he had, notwithstanding he was himself a native of New England, in his California appointments preferred these veterans in nearly every instance. Still, the fact appeared very much as Broderick had proclaimed it; and, in his ceaseless energy to spread the sectional animosity

the occasion provoked, he found it not difficult to convince many Democrats from Northern States that they were a proscribed class entirely because of their place of birth. By this means he not only incited Democrats, and many Whigs as well, from the North, to violent prejudice and embittered hostility toward the Administration and against the Federal chiefs in California, but he also won a large number of them to his side, especially those from New York and New England.

But Broderick was not left without the means and power to reward his devotees. John Bigler was Governor of the State, and Dr. Pierce was State Controller. They were alike bound to Broderick, and ready to serve him in every possible way. Bigler had been a member of the first State Legislature, and cast his vote against Gwin for Senator, and for Colonel Henley. As Governor, since his first election in 1851, he had exhibited his persistent antagonism to Senator Gwin, and early displayed his preference for Broderick, who had reciprocated his favoritism to such effectiveness as to secure the nomination of Bigler for a second term as Governor in the State Convention of 1853 against Richard Roman, then State Treasurer, a Texan, and the idol of the Southern element of the party, who was at the time the most popular man in the State, and noted for his incorruptible integrity. The renomination gave Bigler the election as Governor for a second term. Through his great influence over Governor Bigler in the dispensation of the State appointments and patronage committed to the Executive, Broderick was enabled to richly compensate his supporters throughout the entire State, and he had so mastered the municipal governments in San Francisco and Sacramento as to give him almost entire control of the offices and patronage in the two cities.

As high salaries and very lucrative perquisites were then the rule, the sum total of the public fund, and the indirect means to enrich his supporters thus largely at his disposal, afforded him opportunity, which he used to the utmost, to entice to his standard and to maintain in his cause a very formidable and constantly augmenting force of active, vigi-

lant, tireless, devoted, and skilled partisan workers, many of whom were as reckless of means to ends, and as unscrupulous in their methods of party warfare, as was their desperately-ambitious chief. Nor did Broderick fail to turn to good advantage the fact that his friends and followers were, as he declared, proscribed from Federal positions and patronage for no other reason that that they were disposed to his side or true to his cause. He attracted to his side and cause a formidable number of the disappointed aspirants and applicants for Federal positions in the various departments of the Government service, most of whom had labored with and occupied more or less conspicuous positions in the wing opposed to him, and who fought for selfish ends more than for any real devotion to Democratic principles. And in the fierce and bitter struggle for the supremacy which Broderick waged that year to get control of the nominating conventions throughout the State, for State officers, and the Legislature especially, these unprincipled allies proved to him of great service. Yet, notwithstanding his most arduous labors, and the application of Broderick's unscrupulous and skillful tactics to gain this supremacy, he was only partially successful throughout the State, and in his own chosen stronghold of San Francisco. He succeeded in securing Bigler's renomination for Governor over Major Roman, but the popular Democratic sentiment was so strongly averse, that, while the other candidates upon the State ticket received large majorities, the election of Governor Bigler was barely an escape from defeat. It was vital to Broderick's undeveloped scheme to have Bigler renominated and re-elected, and to the consummation of that scheme the election of a majority of the Senators and Assemblymen for the ensuing Legislature was likewise essential. But in this part of his scheme Broderick failed, and the failure compelled him to a change of tactics, and devolved upon him the exhausting strain and heavy expense of two years more of the most remarkable political campaigning that has ever been known in a struggle for a seat in the Senate of the United States.

It was this scheme, which, at the time of its announcement to the public, created unparalleled surprise and consternation in the Democratic ranks and throughout the community. It startled the oldest politicians, and perplexed Senators and the great men in power in Washington. Nothing like it or equal to it had ever been conceived or suggested in any State from the birth of the Republic. It struck at the accepted spirit of the Federal Constitution, as the instrument itself had been interpreted from the earliest periods, and yet no man could authoritatively assert that it was in contravention of the express letter of the article and sections which relate to the election of United States Senators. Everybody was amazed at the unexampled presumption which inspired the astonishing proposition; and yet everybody who knew David C. Broderick well enough to fairly estimate the man, at once comprehended that, extraordinary and incredible as it appeared, the proposition was one from which he would not shrink, nor would falter in pressing to the last extremity, so long as there remained to it the faintest possibility of accomplishment, entirely regardless of public sentiment, wholly disdainful of precedent and usage, and without any other thought or care or anxiety in connection with it, except the sole consideration of its feasibility and its success.

It is due, however, to the memory of Broderick to state that he was not the conceiver of the scheme; that it did not originate in his own busy brain, driven to high pressure as it was by the intense labors his own unsparing and incessant drafts made upon it in the ceaseless pursuit of the object of his consuming ambition; and that, in his impetuous fervor to grasp that object at the earliest moment, his moral perception was so overcast by the instinctive belief that the prize was really within his reach as to blind him to every other thought or concernment in connection with it, either moral or physical. The opportunity was pointed out to him by the man in whom, above all others, he reposed the utmost confidence. He had been led to see the way, and he felt that he could supply the means. It was as the showing to one

well-nigh hopeless and in despair in the darkness of the Valley of Death the faint glimmer of the light of life—to impart fresh inspiration for the final desperate struggle, which might rescue him from the near impending doom, no matter at what peril or cost the struggle should be made; and to triumph in it everything else in nature must be subordinated—riches, friends, conscience—all except self alone. It was in this spirit Broderick waged his memorable fight for the Senate during the session of the Legislature of 1854. The Constitution of the United States did not expressly forbid the election at that time, but the unbroken precedent of all the States, and the unanimous expectation of the people of California, were opposed to such an election. It was the design and proposition of George Wilkes, in whom Broderick had implicit faith, and who was singularly fertile of resources in desperate exigencies. He cared nothing for the spirit of constitutions or laws. What could be done was his measure of what should be done. "Is it so nominated in the bond?" "Does the Constitution or the law expressly declare or provide against so and so?" These were his guides to action in all such matters, and he so read the Constitution and interpreted the law to Broderick, until he fired him with the resolution to make his bold push for the Senate by forcing the election by the Legislature one year in advance of the accepted and allotted time. He made it the fight of fights in California politics.

CHAPTER VI.

BRODERICK'S ELECTION SCHEME—SKETCHES OF CHIEF ACTORS IN THE SCENE—STATE PRINTING CONTEST—WOOL AND FOOTE BANQUET.

The State Legislature, fifth session, convened at Benicia, January 2nd, 1854. In the Senate were a number of very able men, some of whom were Whigs, and among these Henry A. Crabb of San Joaquin stood pre-eminent. Wade of Mariposa, Catlin of Sacramento, Grewell of Santa Clara, Kurtz of San Diego, Peck of Butte, Sawyer of Amador, Smith of Yuba, and McGarry of Napa, were his party brethren. Crabb was a Mississippian, an ardent Southern man in his nature and principles; of the highest order of true bravery; of unsullied honor, and possessed of a magnanimity of soul which won to him the devotion of friends, and the admiration of all. He stood the acknowledged gallant leader of his party in the State, and on great occasions sunk the partisan—firm Whig though he was—to promote the public weal. While he was a stranger to the emotion of fear, and had engaged in one of the most desperate and bloody personal encounters that became historic in the fiercest fighting periods of Vicksburg, in which he received wounds that came near adding his own to the death of his antagonist, he was, nevertheless, disposed to peace, and was even quicker to atone for a wrong than to avenge an insult. His intellectual endowments were of a superior order, and to these had been added the polish of education, and the vigor of his sterling manliness. He was as a woman in his gentle kindliness of heart; as a lion in his resolute wrath. In political matters, as between men, wherein his own party was not directly involved, all other things being equal, he invariably lent his aid and influence to those from his own section of the Union, or to those whose sympathies were in that direction. Hence, as the Democrats were in the ascendency in the State, and his own party was in almost hopeless minority, he preferred to give whatever strength he could wield to the wing

of the Democratic party which followed the lead of Senator Gwin. But he did not like Broderick, either as a political leader or as a man. They were, in nature, and training, and sentiment, unlike and antipodal. Their courage was of different quality, their associations were irreconcilably dissimilar; yet each cared more to move men than to acquire wealth, and while their ambition had a common goal, the ways and means that the one would practice to attain it were scorned and loathed by the other.

On the Democratic side were several who stood conspicuous. Of these, Judge Hager, Judge Bryan, Judge Sprague, Charles A. Tuttle, and James Coffroth, first or last, supported Broderick; and against him, but not all for Gwin, were arrayed such local leaders as Crenshaw of Nevada, Jo Walkup of Placer, Major Hook of El Dorado, Dr. Kendall of Tuolumne, Leake of Calaveras, and McFarland of Los Angeles. Among the Whigs in the House, Henry of Mariposa, Whitman of Solano, Burton of Nevada, and Major Bowie bore front rank.

Prominent in the list of those in the House classed as "Broderick men" were: John Conness, afterward United States Senator; Parker H. French, Martin Rowan, Hoyt, Tallmadge, D. K. Ashley, I. N. Dawley, James O'Neil, Humphrey Griffith, Richard Irwin, Ben Myres, J. J. Hoff, and Judge Musser—of whom the eight last named had been elected by anti-Broderick constituencies, and four of the eight had, at the opening of the Legislature, been openly against Broderick and his election scheme.

Opposed to these was the element which had as leading men Watkins, Mandeville, Phil Herbert, Aylett, Stevenson, and McGee. Charley Fairfax, elected speaker, was also opposed to Broderick. The most effective of the Broderick men in the House was John Conness, of El Dorado. He had made parliamentary tactics and the arts of legislation his special study during his two terms in the House, and he was assiduous, untiring, vigilant, and pertinacious in his devotion to the business before the Legislature. He was neither to be bullied nor cajoled, placated nor persuaded. Having

pushed, forced, elbowed and climbed his own way from apprentice condition in a pianoforte factory in New York to his position in the Legislature, he was as greedy for higher honors as Oliver Twist was for "more," and yet his intractable disposition and headstrong determination to have no way but his own, or to not allow others to have their way, never bent to accommodation. Out of the most desperate and disheartening situations, he sometimes secured victory by sheer force of unflagging energy and resolute will.

Parker H. French was a leader of entirely opposite character. He was a polished desperado, an utterly unscrupulous adventurer. He had made his band and his name a terror in Mexico, and on the plains on the routes traveled by California emigrants in the early days of the gold discovery, and the stories reported of him exceeded the worst narrated of John A. Murrell or Flores of Mexico. Above medium height, of slender figure, spare in flesh, sinewy, wiry, hardy, with nerves of steel, active as a tiger and with much of the nature of the tiger in his composition, his symmetrical form was faulty only in the want of the right arm, which he had lost in a manner he never cared to reveal, although report supplied the information not at all to his glory. His face, however, carefully considered, was the tell-tale to the man, and it was a face that taught men not to forget it when learned. No savage, practiced in the wiles of savage warfare, was more wily; no courtier, accomplished in the blandishments of courts, was the master of Parker H. French in his intercourse to beguile and fascinate. He preferred adventure to fortune; he reveled in the excitement which wrought the fury of the passions, and burst forth in the awful clash of implacable hatred. And he always fought mainly for mercenary or revengeful ends.

Opposed to Broderick, neither in the Senate nor in the House, were there any so able in debate or so skilled in parliamentary practice as the members who championed his cause. Judge Bryan, subsequently of the Supreme Bench of California and Chief-Justice of Nevada, was, by all odds, the orator, and foremost in ability and intellectual power,

in the Legislature. Judge Hager was his superior in sound knowledge of law, and in every respect an honorable and conscientious man. He was habitually discreet and even-tempered in the midst of excitement; a wise counselor and cautious legislator. Coffroth was facile, adroit, fertile of expedients, good in debate, clever in presenting his arguments, ready of retort, smooth of speech, artful in manner, and much more concerned about the success of whatever he undertook than as to the means required to accomplish the undertaking. He began his public life in the Legislature of 1851, as the youngest champion of the anti-Broderick element, but his defeat for the Speakership in the succeeding session—when Major Hammond was chosen to that dignity opened the breach which finally landed him in the ranks of Broderick's chosen band. Charles A. Tuttle, of Placer, was second only to Charley Bryan in grand oratory and power, and stood the peer of any in his readiness in debate or in influence upon the floor. Royal T. Sprague, of Shasta, was very strong in personal influence with the members. Besides these, Broderick had, as his counsel and aids, Judge Gavan D. Hall of El Dorado, Elliott J. Moore of San Francisco—the first a Kentuckian, and the other a Georgian—G. W. Colby of Sacramento, William M. Lent and David Mahoney of San Francisco, James Stebbins of Yuba, and Don Pablo de la Guerra of Santa Barbara. Don Pablo was of ancient and distinguished Castilian family. His father had emigrated from old Spain among the early comers to California, and he was born within the limits of the old Santa Barbara Mission. He had married into the Noriega family, also of Castilian stock and high social rank, and was a gentleman of noble bearing and the most courtly manners. Of uncommonly handsome face and comely, imposing figure, in the full vigor of life's prime, well-bred, highly cultivated, finely educated, possessed of ample means, and of stainless honor allied with chivalrous pride, he was to Broderick a very influential and greatly-valued friend; for he led to his support a large proportion of the native Californians of the best class, and his friendship and services were free from taint of selfishness

or improper consideration. His devotion was pure and his constancy unwavering. The member from Santa Barbara, Don Pedro Carillo, was of less note, and not at all the equal of Don Pablo in social standing, true worth, dignity of character, scholarship, or intellect. But he was as steadfast to the cause of Senator Gwin as Don Pablo was to that of Broderick. He was, likewise, descended from good Castilian stock and native-born, and more popular among the mass of his race than De la Guerra. The only Mormon in the Legislature—old Jefferson Hunt, of San Bernardino, upwards of sixty years of age—was also a supporter of Broderick, prompted to that stand, it was whispered, by Brigham Young himself, who admired Broderick's pluck and boldness in his extraordinary up-hill struggle against the tremendous odds he had to encounter and overcome at every step of the way. All efforts to budge the old Mormon Assemblyman from his adherence to Broderick were, therefore, unavailing. He was faithful to the wishes of his acknowledged head, who ruled the entire Mormon following from his center of power at Salt Lake City.

Crabb was the only Senator able to cope with the Broderick leaders in the Senate. Herbert was the ablest anti-Broderick man to lead debate or repel attack in the House. But ripest in legislative experience, sounder in Democracy, older in years than any, and impregnably honest, was the venerable Colonel Jo Watkins, of Contra Costa, who had represented Jefferson's district in the Legislature of Virginia for twenty-six consecutive years, and had for many sessions been chosen Speaker of the Old Dominion House. He was a Democrat of the ancient school, and as noted for his courage as for his lofty integrity. Among the Senators opposed to Broderick was Elisha T. Peck, from Onion Valley, Butte County, whose name will figure more prominently in the course of this work in the proceedings of that session. He was a Whig in politics, but not a politician, and was very popular in his district.

The first struggle of the Legislature was upon the election of Speaker. Charles Snowden Fairfax, scion of the honored

Virginia line of that ancient name, and heir to the noble title the family bears in England, member from Yuba County, was elected. A spirited session was expected, as it was about the time of the great excitement in Congress and throughout the Union over the Kansas-Nebraska trouble, and the bill introduced by Senator Stephen A. Douglas in respect to the vexed question. It was generally known that Mr. Broderick and Governor Bigler were strongly opposed to the Douglas bill; and as Broderick had, in the Legislature of 1851, bitterly denounced the Fugitive Slave Bill, and Douglas, its author, it was no surprise to any who knew him that he had now, in 1854, became so intensified in his antagonism to Douglas as a party leader, and hated him so as a man as to make him the object of his fierce, coarse, unrestrained denunciation.

In the State Convention of 1852, when selecting delegates for the National Convention, Speaker Richard P. Hammond had declared his preference for Douglas for President. Hammond was now Collector of the Port of San Francisco, the most lucrative and most powerful public position in the State, and the dispenser of large patronage, official and otherwise. He allowed very little of this to go to Broderick's aid, to his knowledge; although Captain Lyman Ackley, of Yuba, a man of great activity and much influence in party matters in his county, and John B. Schaeffer, a manager of electioneering affairs in San Francisco, each of whom held good positions under Collector Hammond, were actually working in the interest of Broderick all the time. This remembrance of Hammond's preference for Douglas, his collectorship, and his refusal to dispense only a trifling share of the immense patronage of the position to Broderick's supporters, acted on the enraged and impetuous New York chieftain of the anti-Douglas and anti-Kansas-Nebraska element in the State quite as a red cloth acts upon a wild Spanish bull.

Governor Bigler was too sagacious and too wary to go upon the street with his condemnation of the Douglas bill, but reserved his opportunities to assail it for effective

occasions. Mr. Broderick disdained such restraints. He despised and hated Douglas. He contemned his Kansas-Nebraska Bill, and he preferred that the world should know his sentiments of the measure, and his opinion of the author of it. The subject was certain, moreover, to be brought before the Legislature to receive Democratic approval and endorsement, and, therefore, it would create lively debate in that body, out of which Broderick expected to make much political capital for himself, and to aggravate the sectional aspect of the campaign, for which both sides were all the time preparing and maneuvering. He was moreover impressed with the conviction, that in any clash between the Free States and the Slave States, between the North and South, the popular sentiment in every State in which slavery did not exist would be against that institution, and in favor of excluding it from the Territories. He had, in New York, stood with the Old Hunkers in the contest for General Cass, in 1848, and battled with all his might against the Barnburners, and the Buffalo, Free-soil, anti-slavery, Van Buren movement. But since his residence in California he had entirely changed his mind upon the subject, and with the exception of John A. Collins, Frederick Tracy, and two or three other of the old New England anti-slavery stock, then more or less active in the State, Broderick was the most vehement promoter of any in public life of the sentiment of antipathy to the South, and the domination of Southern men in California politics. It was in the Democratic ranks that he could exert the greatest influence in this movement. The State was overwhelmingly Democratic. The Whigs were somewhat formidable, but the Whig leaders were mainly Southern men, and the large proportion of the party were from Southern States. Hence it was in the Democratic party that the effect of Broderick's antagonism to the supremacy of Southern men had most weight; and while it won to him the Free-soil or anti-slavery faction of the party, and a few Northern Whigs, it also had the effect to cause the Southern Whigs to oppose him, and to help the Gwin

element of the Democratic party in defeating himself and his schemes. But Broderick, nevertheless, unceasingly prosecuted his anti-Southern movement, strangely enough, in many instances, by the aid and with the counsel of men born and reared in the Slave States.

Another element of party discord and personal warfare, had come up in the Legislature. It was the election by that body in joint convention, of a State Printer. The office was then held by George Kerr; and interested with him were Vincent E. Geiger, Colonel B. F. Washington, and another. Kerr had been a compositor on the New Orleans *Picayune* in its early existence, and during the Mexican war had commanded a company in one of the Louisiana regiments, in which he had made himself an unenviable reputation in some quarters, by reason of his imitation of Putnam's conduct and official message to head-quarters, in the case of two Mexicans taken prisoners by his men. His message gave all the information he ever communicated. It was to this effect: "My command captured and brought in two Mexicans, believed to be spies. They preserved a dogged silence, and I ordered them to be shot." Yet the actor in this apparently cruel procedure was actually as tender-hearted and as little disposed to cruelty or inhumanity as a woman, and no man was truer or more generous in his friendship, less prone to severity or revenge in his antagonism. He was a native of Pennsylvania; an easy-going, big-hearted, generous fellow, careless of money, and without an enemy in the world disposed to harm him so much as he harmed himself in helping too many who were worthless and undeserving; and at an early stage of useful life he went to mental wreck and the grave through this uppermost disregard of himself in this readiness to sacrifice his own interests to those who preyed upon him. He had been the intimate friend of Colonel James Freaner, who had given Broderick the life-long scar on the cheek in a bar-room fight, and was the publisher of the San Joaquin *Republican*, and a part owner in the San Francisco *Times and Transcript*, and had held an interest in other Democratic papers. Geiger and

Washington were Virginians and journalists—the latter the ablest of Democratic writers in the State, and editor of the *Times and Transcript*, besides part owner with Kerr & Co. All the partners were strong anti-Broderick men, and one of them had been very active in trying to defeat the Broderick element in the primaries and nominating conventions in San Francisco. A combination had been formed by some journalists and Broderick men in other pursuits, of Sacramento and elsewhere, to defeat George Kerr for State Printer. James McClatchey and B. B. Redding, of the Sacramento *State Journal*, were the most prominent of Broderick's supporters, and they were in high favor with him and also with Governor Bigler, both of whom preferred them in respect to the State printing. But to make for the combination all the votes that could be obtained to more surely carry the election, a share of the printing profits was pledged to Colonel Richard S. Snowden, the uncle of Speaker Fairfax on the maternal side, who had been secured to the Broderick interest. Snowden was from Maryland, a hot-tempered, large, coarse-mannered Southern man, and without visible means of support outside of politics. He had, in early days in California, been as a guardian and indulgent protector to Charley Fairfax, and the affection of the worthy and accomplished nephew for his robustious uncle, who was always steaming and puffing and snorting like Dickens's Pancks, was so hearty and so constant and self-sacrificing, that it led him at times almost to sacrifice his own most devoted friends. Snowden had secured from Fairfax the promise to support the combination for State Printer, and his word so pledged was sacredly observed, notwithstanding that afterward he became cognizant that, to keep it, he had to vote against the very men who had on every occasion sacrificed their interests to promote his, and also to vote in conflict with his own higher sense of party duty and personal obligation. Another vote in favor of the combination was obtained from one of the El Dorado Senators, although he had solemnly pledged Kerr and Geiger, the very day he cast

that vote to defeat them, that it should be cast for them. Redding was elected State Printer by a single vote over Kerr, and the event was hailed as a victory, in so far, for Broderick's side.

There was to be elected, besides, a number of other officers to lucrative places, also by the Legislature; and it was believed that the effort on the part of Sacramento to have the seat of government established in that city would excite a great deal of opposition. Thus, by these questions, in addition to the regular routine of legislative business, with several important subjects in view, an uncommonly spirited session was maintained from the opening day; and never before or since, in any Legislature in this State, were there, nor have there been, so many distinctive, and combined, and interwoven events, all tending to the overshadowing issue of them all.

It was this mastering measure, this all-absorbing contest which made it historic and memorable above any other session, before or since. It had not been fully developed when the Legislature met, nor was it clearly understood until the organization. Even then many were disposed to regard it as a matter of talk, and few, except the parties concerned in it, or who had been let into the secret on the part of Mr. Broderick, could be brought to consider it as a scheme likely to be pressed. Still fewer believed it to be practicable, or feared the foreshadowed result to flow from it in case it should succeed. But the men who knew Broderick, and appreciated his character and his purpose, were not among these doubters, nor were they unconcerned as to either the probability of his forcing it through the Legislature, or the effect of it finally in the Senate of the United States. These men knew Broderick well enough to cause them to feel that sooner than to suffer defeat he would forego every other earthly consideration—if not of the hereafter as well; that he would not hesitate to sacrifice all in life, and all except life itself; and that, were the material power given him, to win by the desperate deed of striking down into the dust the army of his followers, and by that

means alone, his own strong-nerved arm would have ruthlessly dealt the relentless blow— for his terrible earnestness and his devouring ambition had neither remorse nor pause this side the grave. And the more the subject and Broderick's ability to accomplish his purpose were studied and investigated, the profounder became the conviction that it would require a tremendous struggle to overcome and defeat this scheme. It was George Wilkes's device, the proposition to elect the United States Senator to succeed Dr. Gwin, March 4th, 1855, one year in advance of the regular time, according to precedent and expectation—to pass a bill to authorize that very Legislature to elect the Senator—to appoint the day for election by joint convention; and, this done, the election of David C. Broderick as the Senator would follow as the inevitable matter of course. Should he be able to prevail upon the Legislature to order the election at that session it would be impossible to defeat him of the election as Senator. And when this conviction broke upon the leading men of the Democratic party of the State who were opposed to Broderick for Senator, or who preferred another for the place, the process was rapid, though deliberate, from astonishment and consternation to preparation for the strong and well-organized resistance that each man felt would be necessary, but which might not, after all, avail against the already-organized plan of the Broderick forces.

An incident occurred during the vehemence of the struggle in the Legislature, which afforded Broderick an opportunity, as singular as it had been unexpected, to recruit his ranks from the opposition, and from Gwin's followers particularly. General Wool, who had won laurels in the war with Mexico, and was greatly honored by the thousands of Western and Southern men in California who had served in that war, had been appointed to succeed General Hitchcock in the command of the United States military forces of this coast. On the same steamer with him, which arrived at San Francisco February 15th, 1854, came ex-Senator and ex-Governor Henry S. Foote,

of Mississippi. These two distinguished personages were mutually disaffected toward the President for reasons peculiarly their own. General Wool had preferred a command more in accordance with his own ideas of his rank, his services, and his importance as Major-General; and, therefore, felt aggrieved at being ordered hither. Governor Foote was incensed at the appointment, as Secretary of War, of his most hated and most powerful personal enemy, Jefferson Davis. Upon learning the peculiar feelings of these eminent personages toward the Administration at Washington, some of the most active and least scrupulous counselors and friends of Broderick conceived the plan of arranging a grand public banquet to the two, ostensibly simply to do them appropriate honor; to the one as a great soldier, and to the other as a renowned Democratic statesman, but actually, to serve the purpose they had most in view—the arraignment of the Administration in such a form as should redound to the advantage of Broderick in his antagonistic efforts to it in California, and at the same time to promote the movement in his own behalf against Gwin for the place in the Senate. At the bottom of this cunning scheme was Broderick's earliest tutor and adviser in New York, George Wilkes, who had come to the State in 1851, and then stood nearer to him, and closer in his confidence than any other, as his Mentor and *Fidus Achates*. The banquet was given in San Francisco, Saturday evening, February 25th. Broderick's friends and backers constituted the greater part of the invited guests, and only a few of the less conspicuous Federal officials were present. Governor Bigler presided, and the affair was so artfully managed as to subserve the immediate object of its promoters; but the reaction which soon followed, consequent upon the intemperance of speech with which some of the prominent participants characterized the President and his Administration, and the development of the real purpose of the affair, brought with it much more harm than benefit to the cause it was designed to promote, and converted it into a source of greater advantage to the dominant portion of the party

which it was calculated to gravely injure. It had the effect to cause some of the Federal appointees who had up to that time been either lukewarm toward Senator Gwin, or secretly disposed to put no stone in Broderick's way, to come out openly and actively in antagonism to Broderick's election scheme and on behalf of the Administration, in order to satisfy the feeling at Washington, among the heads of the Departments, in vindication of the President and his Cabinet, all of whom had been made the objects of much severe animadversion at the banquet, by Governor Foote, Governor Bigler, and other State officers and prominent leaders of the Broderick wing. Had it not been for this needlessly intemperate language, the effect of the banquet might have been more in consonance with Wilkes's designs and Broderick's fervent hope.

CHAPTER VII.

LEGISLATURE OF 1854—BRODERICK'S ELECTION BILL—BRIBERY—PECK AND PALMER—VOTE IN THE SENATE AND HOUSE—BRODERICK'S BRIEF HOUR OF VICTORY.

In his desperate scheme to force the election of United States Senator one year in advance of the proper time, as precedent had established it, at the session of 1854, Broderick stood alone in the mighty contest, with all the allied powers arrayed to defeat him. As declared or possible aspirants for the place, on the other side, were four or five; but the avowed candidates were Senator Gwin, for the succession to his own seat, and General James A. McDougall, then Representative in Congress. Both were in Washington, but each had his trusted agents and workers at Benicia, and wherever else they could be of service. Major Hammond championed Gwin's cause, with a reserve in his own behalf should any contingency arise to warrant his own avowed candidacy. General McDougall's chief agent was Henry B. Truett, a prosperous merchant, formerly Mayor of Galena, Ill., who had acquitted himself in a very creditable manner in a quarrel with Broderick, in the Union Hotel bar-room—Broderick's headquarters at the time—to which he had gone unattended, and where Broderick's attack upon him had been unprovoked. As aid to Truett, for McDougall, was Reuben J. Moloney, formerly of Illinois and New York, and a widely-known politician of the early California period. Prominent among Gwin's supporters were Major Folsom, Captain Bissell, and the Pacific Mail Steamship Company. Broderick was principally backed by Palmer, Cook & Co.; and in the front rank of his active workers were A. A. Selover, John Middleton, Judge Ned McGowan, Colonel A. J. Butler, Thomas Maguire, Robert J. Woods (a Southern man of much local influence) and Frank Tilford, whom he had appointed District Judge in this city. General James M. Estill was also favorable to him at that session, and he was a political manager of uncommon energy and

address, who exercised great power in molding political events.

The Legislature convened January 2nd. January 27th, Assemblyman Gordon, of Amador, gave notice that on the following day he would introduce a bill to fix a day on which the Legislature then in session should elect a United States Senator to succeed Dr. Gwin. The next day he introduced the bill. On motion of Mandeville (anti-Broderick man), against a motion of Hoff (Broderick), to refer it to the Judiciary Committee, it was made the special order for January 31st by a vote of 37 to 32. It was Broderick's bill. The first vote upon it was an anti-Broderick victory, but an unimportant one. Then followed the fiercest and longest-protracted fight of magnitude ever made in the Legislature of California.

The two houses were largely Democratic; the State was Democratic; that year, further on, the State Convention would be held for making Congressional nominations—equivalent to election. And hence the significance of the queer scene which occurred one Saturday morning in the Assembly Chamber, in Benicia, early in the session, when honest old Colonel W. W. Gift entered with a six-shooter in hand, and cried out aloud to the House that, were he to point the weapon and threaten to shoot the first one who should dare to announce himself a candidate for Congress, three-fourths of them would dodge under their desks. In his wild pleasantry the sterling veteran simply touched upon the raw. The first open step to influence or attract public opinion was the preparation of an argument, on Broderick's side, to show why the election ought to be held that session, and to convince the people that it was nearer right than revolutionary. The sum and substance of the argument was, that as the Senator to succeed Dr. Gwin might be required to take his seat March 4th, 1855, and as the journey to Washington consumed fully a month by steamer route and the Isthmus, to put off the election until the session of 1855 would be to run the risk of repeating the experience of

1851, when no Senator was elected, and thus to have the State go without one of the two Senators at an important session; or it might happen that the election of the ensuing session, if held, would be too late to enable the Senator to reach Washington in time to take his seat on the day of meeting. This was, substantially, the argument set forth on the Broderick side for the election in 1854.

The allied forces opposed to the scheme obtained information of the proposed "Address to the People," and immediately took time by the forelock by preparing an address on behalf of precedent and usage, to arouse the people to the importance of the matter, and cause popular denunciation of the revolutionary project. The anti-Broderick and anti-election address was first printed and earliest circulated throughout the State. It appeared on a Saturday during February, and on the succeeding Monday the Broderick address was published. As signer to each—the sign-manual in each case genuine—appeared the name of one of the Senators from Placer County, who had been nominated and elected as an anti-Bigler, anti-Broderick man—the Hon. Charles A. Tuttle. It was a queer position to occupy, a straddle as figuratively painful as was that in which the blundering Briton placed "Britannia seated upon her trident." But Mr. Tuttle was not the only member of that Legislature who either "saw the right and pursued it, too, or condemned the wrong and yet the wrong pursued." The secret history of that contest, which cannot yet be given to the public, would itself reveal enough to warrant the postulate of Sir Robert Walpole, that "all men have their price." Yet it would be invidious to discriminate in these sketches to such purpose as to resurrect and present the facts and make exposure on either side.

But there were events which cannot be suppressed or disregarded with propriety, in order to give a fair and clear understanding of the whole case. Among these was the "Peck and Palmer bribery" affair. Elisha T. Peck was the Senator from Butte County. He had been a Whig,

but was so little of a party man, and was considered so honest by his fellow-citizens, among whom he was generally known as a merchant of excellent character, that he was elected by Democratic votes. There was nothing of the politician in his composition; nothing of the party manager or leader. He was simply an honest, truthful, modest, candid, straightforward man of fair average intelligence and good sense, in whose even make-up there was neither the sharp, salient qualities which distinguish men above their fellows, nor the common clay which is molded by any who presume upon confiding intimacy to pervert the friendly relation into designing mastery; and he was as artless as he was sincere in his attachments. As between the several aspirants for the Senatorship he really had no decided choice. He was a Northern man, and therefore his sympathies were with those from his section. As a merchant he knew Henry B. Truett better than any other of the active managers in the great contest of the session, and to him he had confided whatever views he entertained in relation to it. And as Mr. Truett was the special champion of General McDougall, and was strenuously battling against Broderick and his scheme to force the election of a Senator that session, Mr. Peck quite naturally acted in conformity with Mr. Truett's persuasion and counsel. As he was known to all engaged in the contest as a man of not much firmness, some who were less intimate with him conjectured that therefore he must be of weak and yielding nature, and thence sprung the occasion for the Peck-Palmer bribery matter.

Joseph C. Palmer was the senior partner of the banking-house of Palmer, Cook & Co., at that time one of the widest-known and oldest-established banking institutions in San Francisco. Palmer was himself the head and life of the house; an uncommonly sharp, shrewd, bold, adventurous man, who judged men at a glance, and rarely misjudged any. No one in the community had better information of the hidden springs which move and mold men and events, or were better qualified to ably utilize

the information to such purpose as he wished or willed. With rare insight he grasped the situation at a glance; and once the master of it, he had to be indeed a sagacious and powerful rival or adversary that could dispossess or outmaneuver him. Mr. Palmer was a firm believer in the Walpolian doctrine concerning men—in public as well as private life—a useful friend, a powerful enemy. On the morning of Thursday, January 19th, at the earliest opportunity, Senator Peck arose in his place and proceeded to speak on a privileged question. It was to the effect that, on the 7th of that month, while on the passage from San Francisco to Benicia, on the steamboat *Helen Hensley*, he was introduced to Mr. Palmer by A. A. Selover, and that in a private conversation with Mr. Palmer, a short time after, that gentleman had offered him $5,000 in gold coin to vote, first, for bringing on the election of Senator, and next, for Mr. Broderick for Senator. To this offer he had replied: "I will not sell my vote; I cannot be bought."

First to take official notice of the charge of Senator Peck was Senator Tuttle, who immediately moved the reference of the subject-matter to a special committee of five for investigation, but this was rejected to give place to the only proper motion under the circumstances—that of Senator Hager—to have the charge investigated at the bar of the Senate. On motion of Senator Sprague, the investigation was set for January 24th. On that day Mr. Palmer appeared before the bar of the Senate with General Williams, Stephen J. Field (now Associate Justice of the United States Supreme Court), and Hall McAllister, as counsel. Colonel Ed. D. Baker (afterward Senator from Oregon) was counsel for Mr. Peck. Three stenographic reporters were appointed to officially report the case; the testimony and arguments to be reported in full. Senator Peck stated his interview with Mr. Palmer. The witnesses for the defense were Mr. Palmer himself, A. A. Selover, Will Hicks Graham, Thomas McGuire, and others of less note. Judge W. T. Barbour of Yuba, Judge Winfield Scott Sherwood, W. H. Taylor, and others of more or

less prominence, were the witnesses on Peck's side. The testimony was throughout conflicting, and some of it evidently "cooked."

The case lasted from the 24th of January until the 3rd of February. By arrangement General Williams opened, Colonel Baker replied, and General Williams then made the closing speech. General Williams consumed two days in his argument; Colonel Baker spoke about four hours. The defense had shown wonderful vigor and skill in the examination. Colonel Baker had not taken a note in writing all the time, and he seemed indifferent as to the evidence. He was then comparatively little known in the State, except by those from Illinois and the West, and the Broderick men, who had witnessed the investigation and observed the array of eminent counsel in Palmer's behalf, watched the masterly management of that side, and noted the conspicuous ability of General Williams in worrying the accusing Senator into all manner of entanglements, offensively ridiculed the folly and ill-judgment of the anti-Broderick managers in having employed only one as counsel, and that one of so little apparent effectiveness, and in this view they were largely backed by many of their adversaries during the taking of the testimony.

Colonel Baker was not the choice of Major Hammond, nor of the other manager for Senator Gwin, with whom he generally acted. He was selected by Mr. Truett, whose enthusiasm and protestations and appeals finally led his *confrères* to yield his own preference to his; and thus Colonel Baker became sole counsel employed on that side of the case. His view of the matter was, that as an investigation, either to vindicate Peck or to cast odium on Palmer, it would be vain and futile; that only in its partisan or political aspect, to produce popular prejudice against Broderick and his bold scheme, and thus to prevail with the more impressible of the members who were supporting the scheme, so as to work its defeat, could the investigation be of effect; and hence, it must be in the manner of placing the case before the people, more than

the matter, that the popular interest would be centered, the public sentiment influenced. He assumed, as a matter of course, from the action of the Senate in employing three stenographic reporters, that not only would the testimony be printed in full in the journals of the Senate, but also would the arguments of counsel be fully presented therein. In keeping with this view, he had devoted no more attention to the mass of testimony and to the details of the case than was essential to his own purpose in the argument, and he intended that that should be more in the style of a flaming, rousing, impressive, convincing partisan speech, to make popular capital for the side he represented, than in the line of a legal argument or elaborate appeal to the Senators, sitting like so many jurors, with their minds already made up beyond the power of logic, law or oratory, to sway or affect them, as they were. But General Williams manifestly regarded the opportunity as one to exhibit his legal profundity, as well as his forensic eloquence, and as such, made the most of it. The Senate Chamber was densely packed with spectators to witness the intellectual battle between the pitted giants—the one, the embodiment of law, close reasoning, absolute fact, infinitesimal distinctions, barely visible shadings, and inexorable judgment against every instinct of nature and impulse of sympathy; the other, the impersonation of that expanse and that splendor of genius which makes of speech the luminous matter to set aglow the mind, and then, with its resistless flow in grander form, moves on the subjected mass to its own willed conclusion.

The speeches of General Williams were all law, all fact, all argument, based upon the testimony: the argument of Colonel Baker was a brilliant, powerful, surpassing speech, magnificent in style, grand in its conception; here flowing with the grace of a charming epic, there thundering with the stupendous force of the avalanche; now swaying all with its majestic eloquence, anon lacerating the defense with its fierce invective, or torturing with its merciless cautery. He depicted Broderick as the lion, Selover as the

subservient jackal, and Palmer's fond embrace was pictured as the golden clasp with the sting of death to the honor of its encompassed victim. Rarely was the "Gray Eagle" more eloquent—never was he more caustic. And so ulteriorly effective was his speech, that when he next had a political case to champion in the interest of warring Democrats, it was as the advocate of Broderick he appeared.

But the Peck and Palmer case utterly failed of effect at that time, in practical form, either before the Senate upon the grand contest which occasioned it, or with the people. Its termination was as ludicrous as Jo Baldwin's characterization of the noted case in which he said "the law was given to the North and the nigger to the South." The Senate verdict was given, in double-barreled, back-action, contradictory form and sense, recorded, to this effect: 1st, that the statement of Senator Peck had not been sustained. 2nd, that the decision of the Senate did not in any degree reflect upon the honor and dignity of Mr. Peck. In other words, 1st, that Senator Peck did not tell the truth; 2nd, that it did not in any degree reflect upon the honor and dignity of Mr. Peck, or any other Senator, not to tell the truth. David Mahoney was the only Senator who voted "No" on the last proposition or resolution.

On the same day, Friday, February 3d, that the Senate gave its extraordinary verdict in the Peck and Palmer bribery case, the Assembly, upon motion of Ben Myres, of Placer, (Broderick man) tabled the bill to provide for the election of United States Senator at that session, by a vote of 44 to 32. The vote did not correctly represent the sentiment of the house on that question, however, nor was it the policy of Broderick's opponents to then reveal their actual strength in that body, although they were in the minority. The bill was tabled by Broderick's own supporters in the House, merely to let it await the action of the Senate, and, if favorable, then immediately to take it from the table and pass it.

The question next in importance before the Legislature

was the settlement of the State capital location, and the proposition to remove it to Sacramento and there establish it had formidable supporters as well as influential opponents. Governor Bigler favored Sacramento. Broderick had no choice, except in so far as the location at that time would affect his own paramount scheme. Among his zealous friends in the House who favored the removal to Sacramento were Conness, Dawley, O'Neil, Rowan, and Talmadge; and with these were the ablest of the Broderick journalists, McClatchey, Redding, Madden, and John White (who had up to a few weeks before, been employed as editorial writer for George Kerr's *San Joaquin Republican*, and the *State Journal*, under Geiger, had long given him similar employment). He was an Englishman, who looked out only for his own bread and butter, without regard to consistency or hereafter.

Tom Maguire, who was one of Broderick's most devoted adherents, and among his shrewdest advisers in some respects, strongly opposed the capital removal; but George Wilkes finally became a convert to the proposition, and Broderick at last assented to it. The measure was carried by the lavish use of means, and by the pressure brought to it in connection with the election scheme. The Sacramento County members, who were mostly for Broderick and his Senatorial Bill, voted for removal, as a matter of course. On the passage of the bill the vote stood, in the House, February 3d, 39 ayes to 35 noes: in the Senate, February 17th, 15 ayes to 12 noes. The Governor signed it at once—Sacramento was his home.

February 25th, the Legislature sat for the last time in Benicia, and on Wednesday, March 1st, the two Houses assembled in the Court-house, Sacramento, the use of which, for State purposes, had been granted by the Sacramento authorities. It proved the doom of Broderick's bill to bring on the senatorial election. Broderick knew that he had the House, and waited only to secure the Senate. In that body, February 8th, the vote upon it stood: For, 17; against, 16. But this was hardly a test vote, and the anti-Broderick allies were still hopeful, if not sanguine or confident of final vic-

tory, of its defeat in that chamber. They no longer expected to beat it in the House, and directed all their energies to the Senate. Monday, March 6th, was the day fixed for the final vote on the bill. Broderick was confident of success. In the House, on that day, it was carried, 41 to 38. Herbert (anti-Broderick) moved to reconsider the vote, and had changed his own vote for that purpose. Hoyt, of Tuolumne, claimed that he had the floor. Speaker Fairfax decided that Herbert's motion was in order. An appeal was taken from the decision, and by a vote of 41 to 35 the Chair was over-ruled, Herbert's motion ignored, and the bill was declared passed. The House adjourned amidst great confusion and turbulence.

The Broderick men knew that they held the House, and they were sanguine, almost to absolute certainty, of final triumph in the Senate, after which Broderick's election in Joint Convention was a foregone conclusion.

The Senate met Monday, March 6th, under circumstances of great excitement. It was a matter of the last importance that every Senator should be in his seat punctually at the appointed hour. It was especially vital on the part of the allies that not a Senator on their side should be absent or tardy. There was no fear of the Broderick Senators—every one of them was certain to be in his place on time. There were grave reasons to fear that an absentee would peril or lose the fight on the other side. The pressure that had been brought to bear on some of the Senators on that side was simply appalling to contemplate. The Democratic Senator from Sierra, a poor man, with only his salary to support him from week to week, and who was known to be solicitous for his family in South Carolina, whom he desired above all earthly objects to have with him in California, but was entirely destitute of the means either to visit them or pay their way here, was offered the large sum of $30,000 in gold, on the sole condition that he would vote to bring on the election for Senator. He hastened to his dearest, closest friend, Colonel Joseph C. McKibben, then an intense opponent of Broderick and his election scheme, but who served as one of Broderick's seconds in the fatal duel that cost the Senator his life,

and apprized him of the offer and his own positive refusal of it; but besought McKibben to remain with him until the contest should be settled, in order to keep the tempters from again endeavoring to corrupt him. He remained steadfast to the close of the mighty contest. This was not the only instance. A clergyman was brought from Napa to prevail with his brother, a Senator from a northern county, to vote for the election bill and even a larger sum than $30,000 would have been paid to the brothers—the tempter and the tempted. But the worldly brother was firmer in his integrity than his clerical brother hoped to find him, and that attempt likewise failed, as every other similar attempt failed, to corrupt a single one of the bare majority of one who stood steadfast and true throughout to the last.

But the corruption of Senators was not the only evil or danger against which the non-electionists had found it necessary to prepare and guard. The personal security of every Senator on that side had to be jealously and vigilantly guarded, from morning until night, against desperate attempts and against wicked schemes to cause any one of them to be absent from, or physically unable to attend, the all-important session of Monday, March 6th. The day before, Sunday morning, a merchant of Sacramento, named Haines, who had known Senator Peck in merchandising pursuits, invited the Senator to take a ride in a buggy out to Patterson's, a favorite drive and popular resort in those days. Peck unsuspectingly accepted the invitation. Going out of town, just before the long, narrow plankway was reached—on each side of which for a stretch of nearly two miles was a high embankment—Haines lashed the horse into a run, and by some means the vehicle was overturned. Fortunately for Peck, the accident caused him no worse hurt than a severe shock and momentary fright. He managed to return to town without Haines; and the more he reflected upon the adventure, the more he became convinced that it was something else than an accident. Haines was a zealous advocate of the election scheme, and had urgently importuned the Senator to vote for the bill. There was no "pairing"

among the Senators on either side; and even an injury so slight as to compel him to keep his room during the next day would suffice for the occasion and secure the passage of the all-important measure. Filled with his thoughts and fears, Peck hastened to Truett's head-quarters at the Magnolia House of Johnson & Spalding, and there, in room No. 6—afterward famous for what happened in it, about the time that Broderick and Gwin were both chosen Senators—he was safely guarded through Sunday, day and night, and up to the hour of his going to the Senate, Monday morning, by a band of brave men, with Charley Fairfax as Captain of the guard.

Some amusing scenes occurred during that long night of anxious vigil. Room No. 6 was at the extreme rear corner of the Magnolia, near the landing of the stairway to the second floor, and from it the hall ran in the form of an L, with the short arm to the stairs which led into the hall below not far from the passage-way, into the billiard-room, which was at the rear of the large front bar-room. The house was, as a matter of course, the same as any public-house, open to everybody, and during that exciting season it was never closed, day or night. It had manifestly been intended that Peck should not be in his seat in the Senate on Monday, for, after it was ascertained that he had returned to town uninjured from his Sunday morning ride, and his whereabouts was discovered, various efforts were made during the day and evening to find and call upon him, on the part of several of Mr. Broderick's friends. Among these was Hamilton Bowie, Treasurer of San Francisco; a gentleman of great personal pride, a native Marylander descended from one of the ancient proud families of the early settlement of the Calverts, and a noted observer of the ancient code of honor. His attempt to see Peck was unsuccessful, and he made no second call. But men of a very different quality not only vainly tried all that evening, but some of them became importunate and aggressive, and threatened that if, to get at him, they would have to "take the house," they were prepared for and resolved to execute the undertaking. That

night these parties visited the bar-room in unusual numbers, and oftener than any of them had ever been in the habit of visiting it. The prevalent custom was to carry weapons, and this "crowd" were, in the phrase of the day, "well-heeled"; nor did they lack either the daring or the disposition to engage in desperate encounters with weapons. Dueling and street-fights with knives or pistols—fistic affrays were regarded as brutal and vulgar—were of common occurrence, and a round number of the fighting force on each side were of the class who little reckoned on death in any other way than "with their boots on." Gamest and most fearless of them was Billy Mulligan; a small, compact, finely-proportioned, wiry, active, neatly-kept man, who was unfailing in his word of honor, firm in his friendship, and ready at all times to defend the one or serve the other in any manner the exigency required. He was incapable of falsehood, deceit, treachery, or cowardice; but he valued neither money nor life wherein his feelings, or his attachments or hatreds, were involved. Yet he disdained to cope with foes not at all his equals, and could not be incited to attack an unarmed man. To a leader like this, others of less nerve and much less character, but inclined to ruffianism and violence, naturally were attracted; and the "crowd" or band that "trained with" Mulligan that well-remembered night, were ready to follow whithersoever he should resolve to push the way. All of this was known to the guard-party in room No. 6, and with a single exception every man in that room, to serve as guard, was ready to meet whatever shock might come, in the most determined manner. They had the great advantage of the halls and the long straight stairway, and of the room itself, should it be a contest with weapons against large odds in numbers. Peck had been prevailed with to retire to his bed. The anxiety occasioned by the threats and conduct of the expected assailants or "stormers" continued from late evening until nearly two o'clock the next morning, at which hour the watcher below stairs—one not suspected by the "storming" party—reported everything quiet and the trouble over for the night. The moment the announcement was

made, one of the number in the room, who had sat in great trepidation all of the time, and whose fright sometimes took the form of shivering, with alternate flush and blanch of cheeks, hopped to his feet, drew and brandished a revolver in each hand, rushed out in the hall-way, and there valiantly strutted and dared Billy Mulligan and his whole crowd to face him! As the only danger was in the accidental discharge of his pistols, Charley Fairfax quietly disarmed him; and just then the footfall of Dr. Spalding upon the lower steps, on his way to congratulate the guarding party on the relieved situation, broke upon the great hero's ear. He imagined it Mulligan, and with a yell of terror dashed through the long hall, and into the room of an astounded guest he had wakened by his shriek, who lustily bawled "Thieves!" and began feeling under his pillow for his pistol, to unload it into the intruder. The quick presence of Fairfax and his ready explanation prevented what might have been a comedy turned suddenly into tragedy. But the night-watch luckily ended after all. Peck had sound sleep and good rest during the night, and was in his seat in the Senate Chamber punctually at the hour, that morning of mornings, for the big battle to be fought.

The Senatorial Election Bill was called up early. The vote upon it was taken by yeas and nays, amidst a silence actually painful, and the profoundest suspense; relieved and varying, upon one side and the other, only by the responses of the Senators to the roll-call. Every Senator was in his seat. The chamber was filled to its utmost capacity. Broderick himself was present, pale, eager, nervous, but with jaws firmly set, his deep blue eyes gleaming with the fire that possessed him, and all the forces of his mind and body at their extreme tension. He looked confident, and yet he seemed to fear the giving away of some part of the wonderful plan he had so marvelously wrought up to that decisive point. Lieutenant Governor Sam Purdy, the President of the Senate, presided. He had not been required to express opinion on the vital question, and some believed he would not vote to bring on the election; others felt assured that he would. The

roll-call came, and the votes of the Senators rang out of the oppressive stillness: Bryan—aye; Catlin—no; Coffroth—aye; Colby—aye; Crabb—no; Crenshaw—no; Gardner—no; Grewell—aye. [At this there was a suppressed murmur of joyousness among the Broderick men, and a smile of approbation and of glee; while the angered glances of the amazed anti-election Senators, and the deep, heavy breathing of the hundreds of that wing who thronged the lobby, with mutterings of imprecations and woeful looks, too plainly indicated that there was perfidy in the anti-election camp, and that victory or defeat now rested solely with the casting-vote of the President—a slender thread on which to hang the desperate hope.] Hager—aye; Hall—aye; Hook—no; Hudspeth—no; Keane—no; Kendall—no; Kurtz—aye; Lent—aye; Leake—no; Livermore—aye; Lyons—aye; Mahoney—aye; May—no; McFarland—no; McGarry—no; Moore—aye; Peck—no; Sawyer—no; Smith—no; Sprague—aye; Stebbins—aye; Tuttle—aye; Wade—no; Walkup—no; Whiting—aye. The Secretary of the Senate had not so quickly cast up the vote as the Senators and some in the lobby. Accordingly, the result—a tie—was known before he had officially announced it. A moment of intense anxiety had caused the dense crowd in the chamber to give a sigh of the relief felt that the voting was over, and the mass had made the perceptible slight move the feeling wrought, when the casting-vote of the President was given—aye. The Broderick men broke forth in tumultuous cheering and shouting. The Senators who had supported the bill rose, rushed from their places and hastily congratulated one another, and then forced their way to where Broderick had pushed his, to give and to receive the expressions of joy and transport he could not conceal and sought not to repress. He looked at that moment a conqueror, from crown to sole, and he bore himself as an Antony, proud of his great triumph, conscious of the great power it gave him, and resolved to use it to the last extremity. He was too tremulous in fiber to speak what he would say; too filled with the ecstacy of victory to do more than grasp the offered hands of his crowding

friends, and to look the thanks and gladness which he felt. His eyes were aflame with the tumult of his passionate delirium in the first flush of his victorious command, as he smiled upon his devotees the gratitude he could not utter. And they gazed upon him with admiring awe, or with choking emotions and wild fervor crowded around him to gain his momentary recognition, and the acknowledgment of their services in his behalf. Had he then given the word to "Clean out the house!"—referring to his opponents—the frantic multitude who stood prepared to receive his hint as a command would impulsively have rushed to its execution at any peril.

The Assembly the same morning hurriedly passed the bill, 41 to 38, and then adjourned to witness the contest in the Senate. That body adjourned immediately after the passage of the bill by the President's casting-vote. It was a doleful day, and a busy, eventful night, to the anti-electionists. They were defeated, but not dismayed; overcome, but not despairing. A few of them, the very few behind the curtain, felt sanguine still of final victory. A motion the next day, in the Senate, to reconsider, could yet be made; and it was not a hopeless matter that the reverse of the day might not, by that means, be converted into a crowning, final victory on the morrow. But they kept their counsels, and were not seen among the crowds about the public-houses that night, where the Broderickites were carousing over their triumph, or hilariously bantering and provokingly badgering their rueful adversaries who had given up all as lost. Jacob Grewell's vote had, theretofore, always been securely reckoned upon by the anti-electionists. He had never wavered until that day. Only the very few who had managed the anti-election cause had suspicion or inkling of his change, or that he had been tampered with. But these few did know of it, and they had already prepared, and had executed the plans before they slept, between that Monday night and daylight Tuesday morning, to undo all that the Broderick workers had accomplished. They had planned shrewdly, they proceeded cautiously, they executed promptly, and they were

not long in demonstrating how easy it sometimes is to suddenly snatch the great prize of victory from the very brow of the opposing temporary victor.

CHAPTER VIII.

GREWELL'S CHANGE OF FRONT—KIDNAPPING—THE FINAL DEFEAT OF BRODERICK'S ELECTION SCHEME—SPLIT IN THE DEMOCRATIC PARTY—THE DIVIDED CONVENTION.

Senator Grewell represented Santa Clara County in the California Senate. He was a Whig, and acknowledged the supremacy of Henry A. Crabb as the leader of his party. Of Crabb himself he stood in mortal dread, and generally obeyed or respected his leadership. He had been a preacher, and was all the time a good deal of a politician, with no small leaven of deep concern for the No. 1, as the first law of his nature, in his earthly composition. With the superficial desire to please everybody and offend none, there was within him that commingling of characteristics which at times caused him to appear as a "Mawworm" in canting hypocrisy, and again as an honest soul, struggling with temptation, or to stave off adversity; and with an aspect grave and godly he blended the qualities of droll humor and latent cunning. His patience was invincible, and he so concealed his emotions from visible play, that what he felt or what he meant to do was the one thing which no other person than himself could ever find out. Crabb could engage to guarantee his action upon any very important party matter more nearly than any other man, and also did he know by what mysterious power he held this key to Grewell's conduct; that it was not through party devotion or personal respect, but from a much stronger impelling emotion, as has been stated. Nor did the powerful Whig leader abstain from the exercise of his peculiar form of *persuasion*, in this respect, when the exigency required its full application.

Grewell represented a constituency strongly anti-Broderick, and mainly of Southern and Western sentiment. Himself and Mr. Letcher, the Assemblyman from his county, with whom he stood mostly in accord on all party questions, had been elected by Whig votes, but many anti-Broderick democrats had helped to elect the two. The Santa Clara people did not like Broderick on account of the favoritism

which they believed he had exerted in behalf of Vallejo at the time the State capital was removed thither from San José, in 1851, and the memory of that deep injury to their county-seat still rankled in their hearts.

Up to the very week that the seat of government was again moved, at that session of 1854, from Benicia to Sacramento, Grewell had unfailingly resisted every effort to gain him over to Broderick's scheme, and faithfully acted with the allies who opposed that scheme. But just before the actual removal there arose rumors of stealthy meetings, and long interviews between the Senator and Mr. John Baird, a wealthy and very influential citizen of his county, whose large and valuable rancho at the old Mission of San José was considered one of the finest in the State. Baird was a Democrat, and a zealous advocate of Broderick for United States Senator. He was the intimate friend of Governor Bigler, of Palmer, Cook & Co., and of Horace Carpentier—another of Broderick's most useful managing devotees, and a man of uncommon tact and ability in persuading others to the adoption of his own views. He had succeeded so well with Grewell before the allies or the Gwin and McDougall managers got good clew to what was going on, as to arrange for a secret interview between Jo Palmer and the Senator in San Francisco, as the former was on his way to his home in Santa Clara on short leave of absence to await the all-important day of action upon the Election Bill, March 6th, at Sacramento. Grewell was made a specially-honored guest at the Union Hotel, Broderick's headquarters, and became at once the object of special attention on the part of the leading men on that side.

At the appointed time came the interview—Grewell in his capacious, finely-furnished apartment, he lying upon the sumptuously upholstered lounge, full length, with his coarse boots off; Palmer seated at his side very close to him. An hour or more was occupied by Palmer without appearance of satisfactory effect. Grewell was not of the demonstrative kind; but however much Palmer had counted upon the queer old man's impressibility, not a token of the slightest impres-

sion upon his stolid subject had yet been apparent. He left the room, hurried to his friend and partner George W. Wright—one of the two Congressmen first elected from California, who was also noted for his persuasive powers in desperate cases—and sent him to try the efficacy of his magnetic art in the same line.

It was not long before Wright had wrought with such force upon the supine Senator as to move him to the better adjustment of the wig he wore. Palmer, in his impatience, had gone into the adjoining hall, near the room-door—not as an eavesdropper, but as one naturally deeply concerned; as well he might be, for with that one vote secured, the triumph of Broderick's scheme and Broderick's own election as United States Senator were as foregone conclusions. While thus awaiting the progress of the interview, Palmer was suddenly startled by the quick opening of the door, and the precipitation upon him of Wright, who instantly gave vent to his soul's conviction: "Great God, Palmer, nothing can be done with that old mud-turtle! Why the very moment I get him all right, he lifts off his blank-dashed old wig, and lets all the electricity I have worked into him escape through his spongy bald head. I could see the sparks as they dashed out. It is no use; you may as well give him up as a hopeless case."

But Jo Palmer was not the man to give it up so. He had none of the idiosyncrasies or crankies of his ex-congressional partner on the powers or peculiarities of electricity as a persuasive force or medium by which to produce conversion; nor had he any the less faith in the more practicable and more attractive means by which Sir Robert Walpole recruited his own from the ranks of his opponents, for what Wright had said to him. Others were at length called in, in a social way, and as the subject most at heart was further discussed, the special object of their extraordinary attention rallied them to the task with his occasional encouraging remark and invitation: "Talk on, gentlemen; keep it up; you may get me yet. There's no knowing. It's mighty animating." And at length when

Grewell had departed from San Francisco on his homeward trip, it was considered as a "fixed" proposition that the Senator would certainly vote in favor of the Election Bill, and cast the crowning vote that should elect David C. Broderick a Senator of the United States.

All this, or the material facts in connection with it, had been imparted to the anti-Broderick managers before the Legislature ceased sitting at Benicia. The means to overcome and defeat Grewell's defection and Broderick's consequent triumph had to be immediately adopted and speedily executed, for in four days' time the 6th of March would be at hand, and there were not the conveniences of travel then that now exist, nor of dispatching important messages to distant points. Grewell absent on that vital day would be as bad as to have him in his seat and voting on the Broderick side. He *must* be in his seat punctually at the hour, and also *must* he vote to defeat the election scheme. So decided the anti-Broderick managers, and so determined Henry A. Crabb in his own decisive manner. Letcher, ever faithful and never to be doubted in his leader's cause, was also on leave of absence at his Santa Clara home. He could prevail upon or force Grewell to return with himself to the capital in good time. But to reach either with a pressing message was the essential thing first to do.

A light, tough, hardy, skilled rider was found in the person of Johnny Moore, a San Francisco "boy" who had turned against Broderick, and was eager in the fight to defeat him. He was fearless and a desperate fighter in any kind of an encounter, and he was faithful to every trust. It was a long ride from Benicia, or from Martinez, opposite, to Santa Clara, but Johnny Moore said he could make it on the run every mile of the distance without rest or stop, except to change horses and to take a bite as he rode; never to halt in pace until he put the written precious message into Letcher's own hands. He was amply furnished with money and orders for all relays of horses necessary for the trip, and speedily ferried over to the Contra Costa shore,

from whence he took his racing departure to beat time and Broderick both. Also was dispatched, to make assurance doubly sure, another and more skilled messenger, who was charged with the all-important duty of bringing back with him the absent Senator.

James R. Hardenburgh, then Mayor of Sacramento, was selected for this essential duty. But secretly and carefully as these plans had been adopted and put into execution, it was not long before they were known in the Broderick camp, and, instantly, counter-movements were made. Herman Wohler, a German lawyer of note, who was one of Broderick's ardent supporters, and a gentleman of bland manners and fine address, was dispatched to Santa Clara to head off Hardenburgh and take care of Grewell. The drive in the dark night over muddy roads, although as bad for one as for the other, was too much for Wohler, and Hardenburgh returned a winner. Johnny Moore's energy, determination, and fidelity, had accomplished everything expected of him, and prepared the way for Hardenburgh's triumph over Wohler. Letcher had been wakened in the middle of the night by Moore, fresh from Martinez, in incredibly brief time, apprised of the event which brought to him the midnight messenger, and at the moment he dressed himself and hastened to Grewell's home, aroused him from his sleep, and had him all ready for Hardenburgh's call to bear him away capitalwards. And in due time Hardenburgh delivered his charge into the safe-keeping of the anti-Broderick allies at the capital.

It is one thing to catch a weasel asleep; it is another thing to hold him after he awakens. Grewell strayed again into the Broderick camp and was taken in with warm welcome. Safe and suitable quarters were provided for him at the Fountain House, on I Street, just near the American River, at Sacramento. His room-mate — bedmate, in fact, as John Tyler was of John Minor Botts—was Martin Rowan, Assemblyman from Calaveras, a zealous Broderick man of genial nature and convivial habits, but true as steel in his friendships or to his word. One better

calculated to entertain a stranger in a strange camp could hardly have been selected, and he was intelligent, bright, generous, and impulsive withal. In his attentive companionship, Grewell had been delighted during the long hours of that memorable Sunday, and had been so well-guarded that only upon his appearance in the Senate Chamber the following morning—the eventful Monday—had his anti-Broderick colleagues opportunity to talk with him; and when the Election Bill was called up and the vote taken upon it, his name was duly recorded in favor of its passage. The deed was done. Unless it were undone, in parliamentary form, the victory would be Broderick's, and himself a Senator—the goal of his ambition. And only one of the majority number who voted to pass it could undo it, by moving the reconsideration and his own vote to destroy what he had just created. The Broderick side did not fear the contingency; they were confident that no one of their majority Senators would recede from or change his vote, or undo the thing which had been done.

That night Grewell was again spirited to his quarters in the Fountain House, with Martin Rowan as his companion, entertainer, and bed-mate. It was believed that the secret of his lodging-place was unknown to the allies. The efficiency of their spy system proved the belief fallacious. Between the hours of one and two, Tuesday morning, Captain Dan Aldrich, a character then notorious in San Francisco—brave, boastful, brash, and bumptious, a very cock-sparrow of a fighting man, much affecting the military air and habitude, a Southron fierce, and resolute, who was in the service of the allies as a sort of "brave" to back and give courage to Rube Meloney—had been chosen for the kidnapping, and was sent upon his special mission. In his stocking-feet, with pistol in hand, Captain Dan was let into the hotel by a trusty employé of the host, guided up to the top floor, on which the apartment was, and shown the bed. Dan found the task easier than he had anticipated. Rowan had been over-convivial with himself, and was sleeping as if in a stupor. It was an easy

matter to awaken Grewell, whisper to him, menace him in to silence and obedience, and then, with his clothes all gathered up, to lead him down to the lower floor, there to dress himself, and next to enter the carriage that stood ready for him at the door. In the vehicle were seated Henry B. Truett and another, who had in such manner provided for the conveyance of the errant Senator to a safe refuge in the stronghold of the anti-Broderick camp, where he was securely kept until the hour the Senate met on Tuesday morning. Once again in that body he was the center of attraction, the observed of all. He had, by his unexpected support of the bill, the day before, struck consternation into the hearts of the allies, with whom he had hitherto acted, and given the victory to their enemies, who were still jubilant and somewhat haughty in their brief period of triumph. He had slipped from their cables, but they believed still he would not go back upon his vote of the day before, although some of them feared he would, more because of the changed manner of the allied managers from the deep gloom of the preceding evening to the sanguine, joyous, aggressive expression which now lighted up their faces, than from anything visible in the look or tone or bearing of Grewell himself. But he felt rather than revealed his new and abruptly-changed situation.

Crabb had an interview with him, in which he said with an air that Grewell understood, that he, his Whig leader, expected him to stand by his party, recant from his wrong-doings of the day before, return to his duty, and move the reconsideration of the vote which his own vote had carried, to the end that Broderick should be finally and conclusively beaten, routed, politically ruined. Other considerations also moved him, from other sources. The moment of suspense, after the session opened, was brief. Grewell arose in his place, in a few words explained his change of mind, in which he spoke of "telegraphic dispatches" from his constituency, and then moved the reconsideration, which was carried 18 to 15. Crenshaw, (Gwin) of Nevada, moved the indefinite postponement of the whole subject-

matter, which was carried, 19 to 14; Sprague (Broderick) voting "aye" to move the reconsideration: but before he could do so, Catlin, (Whig) of Sacramento, made that very motion, which was lost, 11 for, 17 against; and with that vote the bill was irrevocably lost, and Broderick's desperate scheme to have himself elected to the United States Senate, was hopelessly crushed.

Then was the transport of the Broderick men suddenly stricken into blackest woe. His champions on the floor were enraged, wrathful, some of them malignant. Moore, of San Francisco, usually the coolest and most placid of men, in bitter sarcasm ridiculed the "telegraphic dispatches" story of Grewell, and scornfully spoke of the dignity or stupidity of the "Bolters," as the anti-Broderick Democrats were stigmatized. Mahoney was tremulous with the rage he labored in vain to suppress. Bryan was contemptuous in the little he said. Tuttle gave his last vote on the subject-matter with the allies, without reason. Colby, of Sacramento, choked with the despairing anger he could not express in language. Sprague was livid with the fierce emotions which seemed to consume him. The "Bolters" and their Whig allies looked on in all the pride of their redeemed power. It was their jubilee. But Grewell was not given to feel that he was the hero of the fight he had lost and won in that moment of turbulent grief and vexation on the one side, of tumultuous gladness and consummated victory on the other side. He had been on both sides, and his return to his own camp was neither from remorse, principle, nor his own honest conviction. The victory he gave to his party was followed by his own political death. In after-years he turned again to preaching, and the places which had known him in politics knew him no more forever. He would not do to tie to.

The defeat of Broderick's attempt to force through the Election Bill to have himself chosen United States Senator one year in advance of the proper time, has been recorded. It remains to present important and interesting events and incidents connected with the extraordinary scheme. When

first made public, the leading men of the anti-Broderick element of the Democratic party gave little heed to it, on account of the strong belief that, should the scheme be consummated so far as the action of the Legislature could avail, it would finally fail of success by the refusal of the Senate to admit a Senator chosen under such circumstances. But this belief was dissipated, or greatly weakened, in a few weeks, by word from Washington. Asbury Dickins, the venerable Secretary of the Senate, accepted as high authority in all matters appertaining to that body, had expressed the opinion that the action of the Legislature would be sustained, and that the Senator elected by it must be allowed the seat. And so ultra a Southern Democrat as Senator John Slidell, of Louisiana, although a warm personal as well as political friend of Senator Gwin, had likewise stated his conviction that the Senate would be obliged to receive Broderick as the duly-chosen Senator. It was believed that Toombs of Georgia, Bell of Tennessee, Crittenden and Thompson of Kentucky, Whigs, would vote to admit Broderick; and it was regarded as certain that the Rebublican Senators, who would number a round dozen in the Senate of 1855, would to a man vote for his admission, for Broderick's bold antagonism to the Douglas Kansas-Nebraska Bill, at that time the absorbing party issue in Congress, and the approval of his course by Seward, Fessenden, Sumner, Wilson, Chase, Hale, Wade, and the other most noted Republican leaders, would naturally incline them to his support in the senatorship. It was this hope on the one side, and this fear on the other side, which infused into the struggle, as it progressed during the session, so much activity and animosity. There were in each house and in each faction thoroughly honest, conscientious men, neither to be moved nor corrupted from the position they had taken after due deliberation. But also there were many in the two houses of totally different character—some of them aspirants for high elective offices, appointments to lucrative places, or rich public patronage to be dispensed by Federal or State authority. There were

some who were reckless of reputation, rapacious in their greed for present gain, and wholly unscrupulous as to means or ends so long as the service required of them filled their pockets. A few were simply as clay in the hands of the expert and masterful potters who fastened upon and molded them. And if any could be wrought upon by fear or force, there were on each side men of fierce courage and commanding manner, and others notorious for their desperate natures and lawless deeds, employed expressly for that kind of service. Throughout the State the popular sentiment was overwhelmingly against the election scheme, and largely against Broderick himself; but as he had succeeded in prevailing with many who were most active in political affairs, and very prominent in public assemblages of a party nature, the sentiment of the large number gathered at the capital at Benicia was quite evenly divided; and in the Legislature at the opening of the session, while the opponents of the scheme were clearly in the majority, the minority in favor of it was a formidable force, led by some of the ablest in tactics and debate, and the most influential in the party. Of the State officials, Governor Bigler was foremost in support of the election, and most devoted to Broderick. The large and rich State patronage at his disposition was of itself a potential auxiliary on that side, and it was freely surrendered to Broderick to dispense it as he chose. And the State Land Commissioners, the Port Wardens, the Commissioner of Emigration, the Health Office, and State Hospital force, constituting altogether a very powerful combination of moneyed influence and voting strength, were entirely in Broderick's interest, as also were three-fourths of the other State appointees, judicial, ministerial and notarial, who got their places or held them by the favor or the sufferance of Governor Bigler. While many of these personally visited the capital to better promote his cause, from all of them contributions were received or levies drawn to carry on the fight. The San Francisco delegation in each house was solid for him, with the single ex-

ception of Numa Hubert, a Louisianian of French extraction, who could not be wrought upon by either arts or force.

Among the number selected by Broderick to aid him in the great struggle, or who volunteered, and were favorably regarded by him, were George Wilkes, Colonel A. J. Butler, J. C. Palmer, Stephen J. Field, John Middleton, A. A. Selover, Frank Tilford, Colonel Dick Snowden, Tom McGuire, Judge McGowan, Vi Turner, Charles Gallagher, and Colonel Hempstead. Closest in his confidence stood Wilkes. Butler was his chief executive arm; Palmer his moneyed backer. Snowden was an uncle of Charley Fairfax, and a Marylander of strong Southern sympathies. Woods was a southerner, Tilford a Kentuckian, and Turner a native of the District of Columbia, the same as Broderick; had been his second in his duel with Judge Caleb Smith, when his watch saved his life by receiving and turning the bullet that would have penetrated the vital organs. The others were useful in their various walks of life and capacities. It was of Vi Turner's brother, a district judge, that Field had a mortal terror, from ample causes. Besides these chosen welcome aids, there were several who rallied to Broderick's standard more from their own impulse than because he specially required their presence at the capital, except on rare occasions. Among these were Billy Mulligan and Felix McCluskey.

Useful to Broderick in some ways were Will Hix Graham and Mortimer J. Smith. Graham was a Philadelphian of good family, of slight frame, gentlemanly appearance and address, and had gained some notoriety from his disposition to vindicate his honor in hostile meetings. He had fought two duels—one with Colonel Frank G. Lemon of Stevenson's California Volunteers, in which he barely wounded Lemon in the shoulder at the first shot; and the other with William Walker, subsequently of Nicaragua celebrity, whom he shot in the foot. In a street encounter with Lemon, near the Plaza, the impetuous Colonel had

fired a revolver directly into his mouth while prostrate on the ground, with no worse effect than carrying away his front teeth, and keeping him to his room for a few weeks. Graham was the capital correspondent of the *Commercial Adviser*, the Broderick organ in San Francisco, and in his letters was a free lance in personal mention of everybody who took part in the contest.

Smith was the publisher of a small Sunday sheet of disreputable character. He had first come into shameless notoriety as the instrument of others in exposing the identity of Talbot H. Green in 1851, to force the Democrats, who had nominated that once conspicuous pioneer citizen as candidate for Mayor, to withdraw him from the ticket, and in driving Green, or Geddes, from San Francisco.

Upon the anti-Broderick side, the outside working force at the capital was less formidable than that to which it was opposed, and mainly of a different character. The Federal officers in the State were nearly all opposed to the election, and, notwithstanding the frequent sharp attacks upon them in the journals which favored Mr. Broderick, for neglecting their official duties to influence State legislation and State politics, a good many of them spent much of their time at Benicia laboring to defeat the election schemes. But there was one of the prominent Federal officers who had refrained from active participation in the contest in his official character, and gave no occasion for any of these ill-natured attacks. This was Colonel Thomas J. Henley, then Postmaster of San Francisco, popularly known throughout the State as the "Old Democratic War Horse," and the most popular leader and effective campaigner in California. Colonel Henley had emigrated here in 1849 from Indiana, and had represented that State in Congress with eminent ability, making for himself at the same time something of a national reputation. At the first election under the State Constitution in California, he had been elected by almost unanimous vote to serve in the first State Legislature of 1849-50 from

Sacramento, and in that body had proved himself a zealous and influential supporter of Dr. Gwin for United States Senator. In the hotly contested campaign of 1851, between John Bigler, the Democratic candidate, and Major Pearson B. Reading, the Whig nominee, for Governor, he had done more toward the election of Bigler than any other speaker in the field, and his speech in San Francisco two nights before the election assured the victory of the Democratic ticket. Colonel Henley was a Democrat of the purest stamp, averse alike to partisan quarrels and schisms in the organization, and steadily labored to promote unity and harmony in the party at every personal sacrifice. He never withheld his voice or vote from the regular Democratic candidate. He always opposed the candidate of every other party. Possessed of a singularly robust nature—of tough, wiry frame, which enabled him to withstand uncommon fatigue—he was invariably even-tempered and good-humored, and always readily approachable without distinction of person or class. What he lacked in educational attainments he more than made up in his superior natural faculties, and was distinguished for his sagacity, soundness of judgment, readiness in emergencies, and pure integrity. Sturdy in principle, unfaltering in the performance of duty, and faithful in his engagements, he never trespassed on the rights or wantonly offended the feelings of even his most inveterate political foes, and scrupulously adhered to the true line of free opinion and free action in every right and privilege of the citizen. Thus constituted, and maintaining these bed-rock doctrines of official and party duty Colonel Henley was not among those who neglected his official station to engage in partisan warfare at the capital. He was opposed to the election scheme because he believed it to be in the face of authority and precedent, but he did not consider it incumbent on him, therefore, to denounce Broderick as a party leader or as a citizen. He favored Dr. Gwin, but he recognized all Democrats as equally worthy, to the measure of their works.

General McDougall's special manager was Henry B. Truett, the San Francisco merchant. Reuben Meloney was next in rank—the "operating" man for the service—and he never hesitated at any mission that promised success, no matter where it led him. His body and his conscience were alike subjective; but while the one required care, the other never gave trouble to indicate its existence. Reuben had managed to have enlisted in the fight on his side a number in no respect better or worse than the similar class who had rallied unsought to Broderick. On each side there was a number employed more as scouts and skirmishers than as yeomen of the guard, and even spies were not wanting to attest that the managers considered that everything was fair in war. Benicia itself was as a hostile camp occupied divisionally by the two armies, with the Capitol building as neutral ground, or sanctuary to each and all. At the lower part of the town, nearest the steamboat landing, was the American Hotel, the headquarters of the allies against Broderick; and at the farther end of the same main street was the Broderick rendezvous, the Solano House, kept by Tom Maguire, since renowned as a theatrical manager. Beyond, on an elevation, stood the Court-house, used as the State-house. Passing to or from it, the anti-Broderick rank and file must every day walk close to the Solano House, garrisoned by its unterrified guard; and opposite to it were the small buildings occupied as the "Gubernatorial Mansion," and further along the office of the Secretary of State, in which General Denver entertained the allies, while Governor Bigler held levee in Broderick's behalf.

It was almost as the war sketches tell of the mutual, friendly, brief visits of "Yank" and "Johnny Reb," for the adversaries to go into the hostile camps—for a "Broderick man" to invade the American, for an anti-Broderick crowd to venture into the Solano Hotel. Everybody carried weapons, and some were a good deal too handy in brandishing them; yet the fight caused no blood-letting from pistol or knife; and as fisticuffs were too "vulgar," or too much

"beneath the style," encounters of that low grade were either *nix* or not noticed. The two startling episodes of the contest were the attempts to get rid of Senator Peck on the critical day of the vote in the Senate on the Election Bill, and the "kidnapping" of Senator Grewell on the night of that day. But these occurrences took place in Sacramento, the week succeeding the removal of the Legislature from Benicia. One vote only was required in the Senate to carry the election scheme and make Broderick the Senator. The House was certain for him. But that one vote in the Senate was the impossible quantity. It was obtained temporarily in Grewell's case, only to be the means of greater loss and grief, vexation and anger, to Broderick the succeeding day, as it has been stated in these pages.

With the defeat of the election scheme in the Legislature of 1854, fell asunder the combination of the Gwin and McDougall allied forces against Broderick, and each of the three became as intensely hostile, one toward the other, as each and both had been that winter against Broderick, or as his side was against Gwin and McDougall. The contest would be resumed in more divisional form and factional spirit in the Legislature of 1855, the regular session for the election of United States Senator; and the supporters of each of these most prominent candidates, together with the friends of the two or three others who likewise aspired to the senatorship, severally and with such favorable combinations as they could make, started immediately upon the campaigning work which should eventuate most to the advantage of their special candidates for that exalted station. Besides Broderick, Gwin, and McDougall, also in the line of ambition for it were ex-Representative McCorkle, Major R. P. Hammond, and one or two less distinguished. The desperate fight that Broderick had made for the place one year in advance of the regular time had, however, divided the Democratic party into two great factions, and while among those who supported his candidacy for the Senate there was no division, on the part of the other side there were as many sub-divisions of lesser

factional character as there were aspirants for the Senate. Those who took sides with Broderick were given the name of "The Electionists" by those opposed, and those in turn were called "Bolters" by the Broderickites. The followers of Dr. Gwin were more distinctively classed as "Ghivs," notwithstanding that many of them were Northern and Western men; prominent among whom were Colonel Henley, Colonel J. D. Fry, Colonel Ferris Forman, General J. W. Denver, J. C. McKibben, and J. R. Hardenburgh. And to the support of General McDougall rallied such extreme Southern men as Phil Herbert, Colonel Blanton McAlpin, Tom Flournoy, and Covington, chief clerk for State Controller Sam Bell.

To cripple the Gwin wing in the succeeding campaign, the Broderick members of the Legislature had chosen for State printer, instead of the Gwin and allied combination candidate, to succeed George Kerr, B. B. Redding of the Sacramento *State Journal*, a zealous Broderickite, who shared the office with Colonel Dick Snowden and two or three others, by previous arrangement; and Governor Bigler had given a still severer blow to Geiger, Washington & Co., the partners of Kerr in the State printing, by vetoing the appropriation bill of the session, by which the payment of a large sum of money due for printing, and required to maintain the San Francisco *Times and Transcript*, the Gwin and anti-Broderick organ, was withheld from the surviving partners. But the paper was kept up by its friends, and, as it was the acknowledged Democratic organ of the State, it led the war upon Broderick with increased vigor and bitter spirit. In accord with it in this stand were the larger proportion of the interior Democratic journals; and most of the Whig or independent papers, led by the Sacramento *Union*, also joined in the hostile movement to overcome Broderick, who had to his support only the *State Journal*, the San Francisco *Commercial Advertiser*, (with William Walker, of Nicaragua filibustering renown subsequently, as editor) and about a half-dozen interior papers.

Broderick's friends were active and singularly zealous, however, and outside of San Francisco and Sacramento, whatever he lacked in numerical force he quite made up in the energy, the vigilance, and the superior ability of his lieutenants and managers in organizing and manipulating the primaries and the conventions. Yet in his own Gibraltar, San Francisco, a hostile organization sprung up to thwart his plans. In it were Judge W. S. Sherwood, Lafayette and John C. Maynard, H. W. Seale, H. B. Truett, Major Folsom, John A. Monroe, Frank L. Jones, a prominent fireman, and others, as leading men, aided by the chief Federal officials—Major Hammond, Collector; W. B. Dameron, Naval Officer; W. Van Voorhees, Surveyor of the Port; Dick Ashe, Naval Agent; General Richardson, United States Marshal; and it was backed by a substantial money power.

Throughout the State the popular sentiment was largely against Broderick, in the Democratic ranks particularly; and this had been aggravated and intensified by his attempt to bring on the Senatorial election in violation of all precedent and usage. But by his mastery in the State Convention of 1853, he had obtained the Chairmanship of the Democratic State Central Committee, and the position gave him material advantage in the arrangement of the plan for the call, and the management of the primary meetings, the County Conventions and the State Convention of 1854, for the nomination of the two Representatives in Congress to succeed Milton S. Latham and General James A. McDougall. He had succeeded in winning to his side, in several of the interior counties, a few very enthusiastic friends skilled in all the arts of the professional politician, who were alike bold in action and reckless of consequences so long as their aims were accomplished. Among these were Henry Caulfield of Sacramento, Jack McDougall of El Dorado, Mike Gray of Yuba, Bill Roach of Monterey, and Sam Asten, Sheriff of Placer County.

The State Convention was called to meet at Sacramento, July 18th. In a number of the strong anti-Broderick

counties the Broderickites held conventions in opposition to the regular Democratic conventions, and elected delegates to contest the seats of those regularly elected at the State Convention, where only the delegates from counties uncontested would be allowed to pass upon the question of which delegation should be admitted.

In this matter Broderick reckoned upon his own county, San Francisco, as safe from contest, and its large delegation would give him control of the Convention. But this hope of his was blighted by the action of the anti-Broderick Democrats in this city, who had completed their opposing organization, and elected the forty delegates to which the county was entitled in the State Convention, with good reason to believe that their course would be approved by the majority of that body. This step had been taken at so late a day that Broderick's supporters in the interior counties could make no counter-movement to overcome it, and hence the contest must rest directly in the organization of the State Convention. The event proved the most extraordinary of any political convention ever held in the State, before or since.

By virtue of his position as Chairman of the State Central Committee, Mr. Broderick hired for the Convention the Baptist Church building in Sacramento on Fourth Street. He had adroitly arranged for the seating of the various delegations in the building, so that his own San Francisco delegation should fill the front row of pews or benches, and nearest the large pulpit platform—a raised structure capable of holding one hundred standing—on each side were to be seated the delegations friendly to him from other counties. No seats were provided for the contesting San Francisco delegates, opposed to Broderick, nor was provision made for any of the anti-Broderick delegations from the interior. His delegations were apprised that before the published hour for the Convention to assemble they could obtain access to the building through the rear entrance, and that they were expected to take advantage of the opportunity; while the anti-

Broderick delegates would have to wait until the front doors were unlocked and thrown open for admission.

This plan of seating the delegations had been arranged in a caucus of the Broderick managers, and the full scheme of organizing the Convention was explained to the delegations. It was arranged that Mr. Broderick himself, as chairman of the State Committee, should call the Convention to order; that a certain delegate should then move the selection of Judge Ed. McGowan for President of the Convention, and the membership of the two important Committees on Credentials and Permanent Organization was all provided for. These preliminaries, if successfully carried through, would secure the control of the Convention to Broderick.

But the opposing Democrats had obtained word of all that had been done in the Broderick caucus, and in turn proposed to defeat the scheme. Also, in caucus, they agreed upon a plan to that end. Ex-Governor John McDougal was selected for president, and from a list of the anti-Broderick delegates, the Committees on Credentials and Organization were carefully chosen. A body of thirty determined men volunteered to guard the person chosen to place Governor McDougal in nomination, and force their way with him to the front of the pulpit platform, from which Mr. Broderick would call the Convention to order. Among the thirty were Major Bidwell, Judge Terry, Sam Brooks, William G. Ross, Major Hook, Ben. Marshall, G. W. Coulter, W. A. Nunally, Charley Fairfax, V. E. Geiger, Jo. C. McKibben, M. Taliaferro, Major Solomon, and George S. Evans. At the appointed hour, 2:30 o'clock in the afternoon, these thirty were at the agreed post, at the front doors of the church, and before the Broderick caucus programme could be arranged, they had forced their way into the building, with the selected mover of Governor McDougal's name for president in their midst, and taken their agreed station immediately in front of the platform, in spite of the efforts of the men who had already been admitted through the rear entrance to prevent them from doing so—conspicuous among whom were

Billy Mulligan, James P. Casey, Mortimer J. Smith, and others of similar courageous or desperate character.

The caucus scheme so carefully arranged had already partially failed, and it remained to be seen how Broderick would endeavor to recover the lost advantage. The suspense was brief. He soon rose upon the platform, declared the Convention called to order, and said he was prepared to hear and put any motion regularly in order. At the instant, the person selected to nominate McDougal made the motion to that effect. Broderick was perplexed. The person upon whom devolved the making of the similar motion for Judge McGowan had failed in his duty, and thus broke in upon the caucus scheme, to badly confuse Broderick himself. But he was equal to the ugly emergency. He refused to recognize the mover of the McDougal motion. By that time, Mr. Vermeule of Santa Clara, who stood far back in the church, put McGowan in nomination for president. Broderick at once spoke in a loud voice: "I recognize the gentleman from Santa Clara. The seat of the other gentleman is contested. I will not recognize him." Major Hook shouted to Broderick: "You have no right to decide on that. Your duty is to put the first motion made, no matter who made it." Broderick gave no heed to Hook, and proceeded to put the question on McGowan's presidency. Indescribable confusion prevailed, in the midst of which the mover of the McDougal motion put it himself, declared it carried as soon as response to it came, and before Broderick had announced the McGowan motion carried, Governor McDougal was crowding his way to the chair placed for him upon the platform. Judge McGowan was at the same moment pushed forward by his Broderick supporters for the place. Dougherty, a reporter, who was friendly to Broderick, tried to intercept McDougal's passage, but was instantly shoved aside. About the platform, on the three sides, were excited men, many with pistols in their hands, violently gesticulating, shouting, bawling, shrieking, and threatening to shoot. The platform itself was crowded with others, all armed and prepared for the worst, but more cool and less passionate than

those upon the floor. Terry and Brooks, and Ross, Bidwell, Hook, and Fairfax, and a score of other determined men, held the commanding position to protect McDougal in the chair. He and McGowan were seated side by side in arm-chairs, and each received and essayed to put the various conflicting or antagonistic motions offered by the respective factions upon the floor. George S. Evans was chosen secretary by both sides. There were fully six hundred people in the church—delegates, contestants, and spectators. A hundred or more had pistols drawn, either at ready rest or were brandishing them. A blow or other sharp provocation might have been accepted as the signal for a general free fight, and it could hardly have failed of being a massacre.

It was a most trying situation for the first half-hour, and many who had looked in to witness the proceedings hastily left, through fear of the bloody collision that all seemed to anticipate. Angry speech and menacing movements prevailed. Broderick charged McDougal with having refused to vote for Governor Bigler in 1853. Then Vermeule, Broderick's champion on the floor, was brought to confess that he also had scratched Bigler at that election. Major Bidwell, of Chico, boldly declared that he had not voted for Bigler. An effort at compromise was next made. Judge Alexander Wells and William Walker (of Nicaragua notoriety) spoke on the Broderick side. Walker expressed Free-Soil sentiments, which roused Blanton McAlpin to proclaim that neither Free-Soilers nor Abolitionists should be allowed in Democratic councils, and excitement became intense throughout the sacred edifice.

The rival leaders on the platform jostling in close contact, were prepared for the conflict that seemed inevitable. At that very moment a pistol-shot was heard near the platform. Instantly followed the clicking of pistols in every portion of the church, and then came an ominous silence, which felt as the premonition of the awful calm that precedes the burst of the hurricane. It was the deringer of Rube Meloney which had exploded, while in his waistband, at the front, over his portly form, as Rube was nervously feeling for it. He

moaned that he was dangerously, he feared mortally, shot; he felt the warm blood flowing from the wound down into his boot. A few friends at once carried him into the small room in the rear of the church, and Dr. Price was promptly called to make an examination. Rube was in a nearly fainting condition, and complained of the rapid loss of blood and consequent waste of strength. The examination, however, proved that the bullet had not so much as grazed the skin. There was no abrasion. It was not blood that Rube had spilled.

Rube's nervousness and fear, through which he had been so carelessly twitching at his pistol, came very near precipitating a tragedy that might have caused the loss of hundreds of lives, and ugly wounds, and the destruction of the edifice. Fortunately all this was spared, and the only harm done was the carrying away of two or three sashes, through which a score or more of badly-frightened men had leaped in the paroxysm of terror incident to the pistol discharge and the dread that it was the signal for indiscriminate shooting, and the breaking of a number of the pew-benches by others whose scare drove them to a frantic rush in trying to escape doorwards.

After the excitement had subsided, and it was ascertained that no one had been really hurt, the attempts to compose the fierce factional troubles were resumed, in order to restore order and bring about harmony or compromise. Governor Bigler essayed the fruitless task, only to be derided for his manifest partiality to the Broderick wing. Walker tried again to speak, but was hooted into silence. The uproar became so violent, as the patience of the hostile factions became exhausted, that neither wing would allow any speaker of the opposing force to utter extended remarks. At length the church trustees appeared and requested the whole crowd —the delegations and the spectators—to withdraw from the building. They were laughed at. Soon afterward came the pastor, who implored them in God's name, to leave his church and never enter it again as politicians. He might as

well have talked to Indians on the war-path to desist from their purpose.

The two opposing presidents, side by side, sat as the chosen of their respective factions, regardless of any not of their own side, though alike incapable of doing good, or aught else than maintaining their seats with rigid composure, because of the refusal of either faction to recognize the rulings or words of the president of the other faction. Yet cross-motions, and declaring them either carried or rejected, were kept up on each side in the strife for advantage or supremacy, and these were as regularly met on the opposing side by jeers and cat-calls, shouting and derision, so that the conflict and confusion had no cessation. This extraordinary condition of conflicting action lasted from the opening hour, three o'clock afternoon, until eight o'clock evening.

In the deep twilight the scene in the church was of Babel-like character. The trustees refused to allow the building to be lighted, and the feeble light of the two candles which had been got for the purpose, each held by a volunteer for the duty at the side of each president, served only to designate the whereabouts of that officer. The faces of none within the building were visible to those a half-dozen yards away; only at close range could any be recognized. Finally a proposition was agreed to, that the two chairmen should lock arms and march together out of the building, followed by pairs similarly made up—"Bolter" and "Electionist," arms akimbo—from the hundred or more upon the platform; and in such form and manner the hostile factions adjourned, and when outside the church doors separated and dispersed, not again to meet together, but to assemble separately in opposing conventions, to nominate antagonistic tickets, and carry the factional war into every district and precinct of the State. The next day the anti-Broderickites met in Music Hall, the Broderickites in Carpenter's Hall, and the Democratic party of the State was then split into bitterly hostile divisions.

CHAPTER IX.

THE OPPOSING CONVENTIONS—OVERWHELMING DEFEAT OF THE BRODERICK TICKET—HIS MASTERLY STRATEGY AND HIS DOMINATION AGAIN.

When the Broderick wing of the Democratic party and the anti-Broderick wing marched out of the Baptist Church in Sacramento—after the fruitless attempt upon each side on that eventful 18th of July, 1854, in State Convention, from afternoon until in the night, to compose the schism and heal the division which impregnated and separated the two hostile factions—they dispersed at last, to come together no more during that year, and it was by one of those tremendous, bold, and masterful movements which Broderick, on other occasions vital to his own cause, had made and subsequently pushed forward to accomplish his great ambition, that the breach was patched the year following, only to involve both factions in a common and humiliating defeat, out of which Broderick emerged in far better and stronger form than his duped and blundering and impolitic rivals, who had in a moment of commingled magnanimity and fear surrendered to him—under the cover of a compromise he had proposed when compromise was the only hope left him for rescue or political life in the line of his devouring desire—all the advantage of the situation their own superior forces had given them. During the night of the 18th, each wing caucused on the situation, and planned for the morrow and the future. The Broderickites resolved to meet at Carpenter's Hall, on the levee, with McGowan as Chairman, and to so maneuver as to put the anti-Brokerick wing on the defensive before the people, in the event that they should refuse to meet with them, or should reject the overtures for conciliation, union, compromise, and harmony, which would be made to them from the Broderick wing.

But the anti-Broderick managers were the superiors of their adversaries in diplomacy and finesse, in everything that appertained to the conduct of conventions or campaign-

ing matters, with a view to winning the popular ear and securing the confidence of the people. They were superior also in the important matter of the *personnel* of the Convention in the public estimation. They had determined to submit to no further abuse of Mr. Broderick's position of Chairman of the State Central Committee, or to subject themselves again to the disgraceful scenes of the stormy session of the first day in Convention, mainly attributable as the whole difficulty was to the conduct and temper of Broderick himself. Accordingly, McNulty's Hall, a capacious building in the center of the business portion of Sacramento, was secured for the purpose of holding the Convention of all who sided with the anti-Broderick element, with Major Hook of El Dorado in the chair. Thus, on the morning of May 19th, the two conventions met in Sacramento, in different and distant halls, each claiming to be the Democratic State Convention. That presided over by Judge McGowan had no representation from several of the strongest Democratic counties, and only partial delegations from several others.

The anti-Broderick Convention was nearly complete in its required membership. Among those who bore prominent part in it were J. W. Mandeville, late State Controller; John G. Downey, since Governor of the State; H. P. Barber of Tuolumne, Major Hook of El Dorado, John Bidwell of Chico, Colonel B. F. Washington, V. E. Geiger, General James M. Estill, William S. Ross, Sheriff Nunally of Shasta; Charles L. Scott, afterward Representative in Congress; Judge A. C. Bradford, Phil. Herbert, Dan Gelwicks, Dr. Taliaferro, Judge Ross of Sonoma; Jo C. McKibben, afterward Broderick's second in his fatal duel; Major Solomon of Tuolumne, and W. W. Van Voorhees. Conspicuous in the Broderick Convention were William Walker, subsequently of Nicaragua; Churchman of Nevada; John Conness, afterward United States Senator; Judge Sprague of Shasta, and Humphrey Griffith of Yolo. The first business of the Broderick Convention, after organizing, was the appointment of a Committee of Compromise and Conciliation, empowered to

meet a similar committee from the anti-Broderick Convention, and the notification from the Carpenter Hall body to the Convention at McNulty's Hall, that such a committee had been appointed, with request for the appointment of a committee to meet and confer with it on the part of that organization. William Walker, Humphrey Griffith, and Churchman, were the leading members of the Carpenter Hall Committee. The McNulty's Hall Committee consisted of John G. Downey, General Estill, J. C. McKibben, H. P. Barber, and Judge Ross.

The proposition to appoint such a committee was at first received with jeers and derision; but, to overcome all objections, it was finally acceded to. After a brief conference of the two committees, however, the anti-Broderick Committee reported that the meeting had been without practical result; that there was no hope of any adjustment of the difficulties between the two Conventions, and that no further movements in that direction be made. This statement of the situation was tumultuously applauded in the body of the Convention. A resolution, embodying the tenor of the report, was at once offered, and by unanimous vote the resolution was adopted, and the Committee on Compromise and Conciliation was discharged. No other attempt was made to harmonize the warring factions. The anti-Broderick Convention put in nomination for Congress General James W. Denver and Philip T. Herbert. At that time, California was represented in Congress by General James A. McDougall and Milton S. Latham, both men of Northern birth; the first a native of New York, the other of Ohio, but alike standing as the representatives of the Western and "chivalry" elements combined. Latham was willing to have a renomination, but McDougall hardly cared to again accept the nomination, less it might spoil his chances for the United States Senate, to which he aspired, and hoped to be chosen in place of either Dr. Gwin or Senator John B. Weller. But the pair were anti-Broderick in a personal way, as well as in partisan relationship, and neither sought nor expected favors at the hands of Broderick or his supporters.

The prominent actual candidates among the Broderickites, as a portion and consequence of their support of Broderick's bill to bring on the election for United States Senator the year before the recognized time, it was generally understood, were Ben Myres of Placer, and James W. Coffroth of Tuolumne. But neither of these desired to run, with no possible hope of election, and therefore they declined the empty honor the Convention of Carpenter Hall first thrust upon them. The place must be filled, if only as a pretense of the belief of that wing to gain the election; but no sensible member of the Convention could be deceived into such preposterous belief—certainly not any of the practiced politicians who managed the affair. Nominations went begging. No suitable persons for candidacy would accept or permit their names to be used in such connection, and to put up any other than a reputable ticket would add disgrace to defeat. There were then no telegraph wires across the continent. The only means of communication with Washington were by mail, and the shortest route of travel was by the Panama Isthmus route. General McDougall and Mr. Latham were known to be on their way from Washington to California, to arrive in a few weeks, but no one was authorized to speak definitely or decisively for either of them in regard to renomination for Congress. George Wilkes suggested to Broderick that, in case no other respectable men would stand, the names of McDougall and Latham might be put on the ticket, and there would result from such action contingencies which could not fail to injure the cause of the anti-Broderickites, if they should not also directly advantage the cause of Broderick and his ticket in the campaign. Moreover, if it should not serve as a sort of rebuke to the McNulty's Hall Convention for not having renominated the two popular Representatives, and so work harm to that wing and its ticket of Denver and Herbert in the State, it would force McDougall and Latham themselves into taking positive and active sides in the campaign, and require them either to stand upon the ticket, to oppose the nominees of their own supporters, or drive them into the unpleasant dilemma of repudiating the

very men who had now honored them by a candidacy they had no right to expect. In any view to be taken of the movement, Wilkes protested, Brokerick's cause could only be promoted, not damaged; or, at the worst, whatever harm should befall would be to the account of the foe, and not to his.

Broderick was won by the arguments of his accustomed Mentor, and the ticket was put forth—McDougall and Latham—only to be repudiated and opposed by both the nominees the very day of their arrival in San Francisco by steamer from Panama a short time afterwards. General McDougall and Mr. Latham heartily indorsed the nomination of Denver and Herbert, and actively canvassed the State for the anti-Broderick wing. Before the day of election the Broderickites were constrained to take Latham's name from their ticket. For it they substituted that of Churchman of Nevada County, and with him and the name of McDougall, although the General vigorously labored on the other side, the Broderick faction made its futile fight.

The Whigs were then formidable in California, and with so serious a division in the Democratic party, it was believed by many, and many of these were Democrats, that the Whigs could carry the State. They had nominated an exceptionally strong ticket—Colonel G. W. Bowie and Calhoun Benham. The election came off in September. The result surprised all parties. For a time the victory was claimed by and generally conceded to the Whigs. Returns came in tardily, and from the remote districts in northern California and in the southern extremity of the State the word was so long in reaching San Francisco that the suspense became vexatious. At last the returns were all in, and it was ascertained that while Denver and Herbert got a total vote of about 37,000, and the Whig candidate of above 35,000, the highest vote for the Broderick ticket was only a few hundred in excess of 10,000. It was a Waterloo for Broderick, as it was thought at the time, although he had succeeded in securing a round number of Senators and Assemblymen in the new Legislature to sit in 1855; but he managed to timely turn the tables so as to bring the overconfident vic-

tors to more than an equal division of all the triumph had brought them.

The Legislature assembled the first Monday in January, 1855. It was largely Democratic in both houses. Dr. Gwin had more than a majority of all the Democratic members, but unless the party rules regulating caucus were observed, this majority was powerless to secure his election. To go into caucus, on the part of all the Democrats, was to surely give Dr. Gwin the nomination, and re-elect him as Senator, as his own successor. The year before, the Broderick men insisted upon the caucus rule, and maintained that no member could preserve his standing in the party and refrain from abiding by it. But so had the Democrats opposed to Broderick contended for the contrary ground. Now, in the differently constituted Legislature of 1855, each faction or wing adopted directly opposite grounds of action: the Gwin men insisting upon caucus rule; the Broderick men refusing to go into caucus; and the McDougall and Hammond men, who had acted with the Gwin men against Broderick at the session of 1854 and all during the election campaign of that year, now antagonizing the Gwin members, and combining with Broderick's men to defeat Gwin's nomination and election as Senator. It was Broderick's opportunity, and he made the most of it. The session was frittered away without the election of a Senator, and as Dr. Gwin's term expired March 3rd, that year, from and after that date California had only one Senator in Congress until the re-election of Gwin himself to fill it in 1857.

It was by the great skill and masterful strategy of Broderick in the prolonged and bitter contest of that session of '55 that he regained all that he had lost in the election of the preceding September, and once more placed himself at the head of the Democratic party in managing its subsequent movements onward to the period when he stood sole and imperious master of the situation, and dictated who should be his colleague in the Senate of the United States. The Carpenter's Hall Convention had appointed its State Central Committee of thirty-two, all devoted supporters of Brod-

erick; and notwithstanding the overwhelming defeat his faction had encountered at the Congressional election in September, Broderick resolved to maintain the organization, unless he should be able to name his own terms in a compromise to harmonize the Democratic party under one supreme acknowledged organization. In this determination he had to back him nearly every man of his own faction, and, with these, many of the victorious faction who were more eager for office or spoils than careful or mindful of principle, besides others who had become dissatisfied and disaffected through disappointment in not getting places they expected. Then, too, the combination with his own forces of those of McDougall and Hammond, and the others opposed to Gwin equally as himself, who had been working with the Gwin men at the session of 1854 to defeat himself, gave him rare opportunities to form new and startling alliances in his own behalf, in view of coming events intimately connected with the Senatorial election. He had the reputation of rigidly adhering to his promises, of sacredly fulfilling his pledges. On this first-rate capital Broderick traded as few other men in conspicuous public life have ever traded. So long as the strictest secrecy was enjoined and observed between those he dealt with, he never allowed the use of a promise of the kind to stand in the way of his purpose. But it was not until it was too late for remedy or redress that this phase of his character, this method of his management, was discovered, except by comparatively few, who knew him more intimately, and had learned his defects while they admired him, nevertheless, as a party leader and champion.

And when the Legislature had at last adjourned without electing a Senator, largely by Broderick's means to defeat an election of any of his adversaries, as they had all combined to defeat his election the preceding year, he felt himself strong enough to offer his plan of compromise to the anti-Broderick organization of the State, with the boldly-expressed alternative to accompany it, that, unless it was accepted, he would wage relentless and indiscrimi-

nate war against the refusing organization, its ticket and its leaders. His offer was to merge the two State Central Committees into one, with one-half of each retained and the other half dropped; and the choice of the chairmanship to be decided by a mode upon which he had determined. His force was at the utmost less than 11,000 votes; the other organization had a support of not less than 38,000—nearly four to one. Yet the State Central Committee of that wing, with the figures and the whole case plain before them, accepted the offer of Broderick, and with that acceptance surrendered to Broderick the complete results of the victory which their constituents had so recently gained over him. They had him beaten and powerless to do their party harm, as the election had demonstrated; but they still feared his power to deprive some of themselves of the places they hankered for, to defeat others of them in the pursuit of their higher ambitions; and in that sign Broderick conquered. He spoiled his own victors of the spoils they had wrested from him, and got possession of all they held into the bargain. It was the most craven capitulation on their side, the most fruitful capture on the part of Broderick, that ever occurred in American political history, and it helped more, eventually, to elect him to the Senate and to absolutely order the election of his colleague than any other single event in the whole line of the protracted and variable and extraordinary struggle. It was the entering wedge to the division and defeat and overthrow which in after years almost destroyed the Democratic organization in California.

CHAPTER X.

BRODERICK'S DIPLOMACY AND POWER IN COMPROMISE—CONVERTING DEFEAT AND DISASTER INTO TRIUMPH AND UNEQUALED MASTERY.

Broderick's only hope and chance for eventual success in getting to the United States Senate, after the defeat of his desperate election-scheme of 1854, was the mastery of the Democratic organization of the State, by which to control the State Convention of the party in 1855, and then to elect the State ticket he should dictate, or have placed in nomination. The division created in the party in the Congressional campaign of 1854, which had resulted in the rival Conventions at Sacramento of the Music Hall Denver-and-Herbert-Kansas-Nebraska-Administration ticket opposed to him, and of his own Carpenter's Hall Latham-and-McDougall-anti-administration ticket, finally made into the Churchman-and-McDougall ticket (in spite of McDougall's indignant protest against the use of his name in such connection), and the overwhelming defeat of the Broderick ticket, made his case still more forlorn. Almost any other Democratic or party leader in the State would have accepted these severe reverses as the sufficient demonstration in each instance that the verdict of the people, and the sentiment of his own party, were altogether averse to himself as a candidate for the Senate, and to his ascendency in the politics of the State. But Broderick was not the man to bow or gracefully submit to the popular will, whenever it ran counter to his own indomitable determination to be the leader of his party, and to mold and control it to his own inflexible purpose and end—the coveted seat in the Senate. He had for too many years battled his way upward from comparatively inferior position, to be deterred now from his resolute purpose; he had too often either braved or defied public sentiment, to turn from further strain in the same direction, at the juncture now presented; and he had, on all these occasions, so artfully and so surprisingly

managed to so withstand the popular current, or to take advantage of its ebb and flow, as to turn to prompt advantage at the favorable moment the tide which had just before set so strongly against him, and to suddenly change what seemed a crushing defeat into a drawn battle, or to convert it into an apparent victory, that he still maintained undiminished confidence in his own powers to that end, and he had ceased to despair of eventual triumph in the pursuit of the object of his unconquerable ambition, so long as life and means were left to him. The discomfiture he had so recently sustained acted, therefore, as a fresh spur to his heroic resolution to persist in the contest in which his whole nature was so fiercely absorbed, and he unceasingly planned to extricate himself from the disaster that had befallen him, and to involve his victorious opponents in a worse dilemma.

It was in this spirit that he simulated the disposition to heal the schisms in the party immediately after the inglorious defeat of his congressional ticket in 1854, and expressed his desire for such mutual conciliation of past dissensions as should lead to harmony and unity throughout its membership in the State, and effect a compromise that would place the entire party once more under the guidance and regulation of a single State organization. His first move was his offer of compromise, to such purpose, on the part of the two antagonistic Democratic State Central Committees. His own committee were in his hands as clay in the hands of the potter, and he had only to direct its members to his will. The committee appointed by the organization whose ticket had so overwhelmingly triumphed in the congressional election was composed of different and various shades on the partisan or factional question concerning the senatorship, and between some of these factions the feud was as bitter as it was in relation to Broderick. Each committee was composed of thirty-two members. The Music Hall Committee had quite as many who preferred McDougall or some other than Dr. Gwin, for senator, as it contained of members who favored

Gwin, and in the enrollment it so happened that these antagonistic members alternated from top to bottom. The first appointed was Colonel B. F. Washington, who preferred Gwin. But his election as Chairman of the Committee placed the name of one who was the firm friend of McDougall first on the roll, in roll-call. And Broderick, with the wily Geo. Wilkes to prompt him, soon saw in this accidental arrangement of the committee roll an opportunity of rare importance to his scheme of the moment. He sent to the Music Hall Committee a proposition for friendly meeting and conference with his own committee, for the purpose of harmonizing the division in the party, in view of the very important State election of the ensuing fall of 1855 and uniting the warring wings. It seemed a very fair and reasonable proposition, and although the congressional election had demonstrated to the anti-Broderick wing—or, more properly, body—of the party, with their 37,000 votes to the bare 10,000 votes of the Broderick faction, that they could succeed in the State in defiance of himself and his followers, the disposition to cease such vexatious schism and to reunite the whole party in complete concord, was generally prevalent, and among the McDougall men it was entirely uppermost; inasmuch as they had in the preceding Legislature actually joined with the Broderick members in refusing to go into Democratic caucus so as to prevent Gwin's re-election to the Senate.

Broderick's proposition to the Music Hall Committee was, moreover, made at a time when two of the Gwin members of that committee were absent from their homes in San Francisco and not likely to return in time for the proposed meeting. It was accepted, and in the spring of 1855 the two committees met. Every member of Broderick's Carpenter's Hall Committee was present. Of the Music Hall Committee thirty were in attendance. The two absent members had been notified by letter of the meeting and its purpose, and had sent their proxies according to usage—one to General James W. Denver, and the other to Colonel Joseph C. McKibben, both of whom were favor-

able to Dr. Gwin. But then, for the first time in the history of the Democratic party in California, it was decided that a proxy for the State Central Committee could not be held or voted by any other than a member of the committee; and as neither Denver nor McKibben were members of the Committee, they could not be admitted to the meeting, nor participate in its proceedings. The decision placed the Gwin members at disadvantage, and gave the virtual control of the meeting to those who favored McDougall and other aspirants for the seat in the Senate then vacant. In the conference, to more securely establish his own mastery of the State organization, Broderick suggested that, as a committee of sixty-four would be too numerous and too cumbersome a body, the members should be reduced to the limits ordered by each of the two conventions from which the respective committees had been appointed—thirty-two in all. This was favorably received, and Rube Malony, McDougall's chief agent, thereupon proposed that the roll of each committee should be called and each alternate name dropped, so as to leave the remaining members the reorganized committee. The McDougall and anti-Gwin majority of the Music Hall Committee voted the adoption of the proposition; and then Broderick, in a spirit of apparent magnanimity, made the all-important concession which had the effect of striking most of the Gwin men from the Music Hall Committee roll, and leaving on it the most active and skilled political managers, who preferred almost any other than Dr. Gwin as Senator or leader. It was, that the first name called from either roll, to determine the constituent composition of the reconstructed and consolidated committee, should be from the head of the Music Hall Committee—a McDougall man. This artful motion, couched in the form of unselfish and magnanimous concession, was instantly carried by the favored majority, and the alternated roll-call plan had the startling effect of leaving upon it nearly all the anti-Gwin members, and striking from it almost all who favored Gwin, as the sixteen to sit with the sixteen culled from the Carpenter's Hall Commit-

tee, as the Democratic State Central Committee to order and conduct the affairs of the Democratic party of the State in the vital State campaign of 1855. The upshot of the conference and compromise was the practical surrender of the party organization, by the committee which represented the 37,000 Democrats who had so signally triumphed over Broderick and his 10,000 followers in the September election of 1854, into the hands of the vanquished leader and his faction, then so completely routed. And Broderick came forth from that conference with his cunning compromise accomplished, and himself armed with greater power than ever, although fresh from terrible defeat, the most formidable leader of the great party he had so recently rent and opposed that the party itself had ever known.

CHAPTER XI.

OPPOSITION TO GOVERNOR BIGLER—BRODERICK'S STRATEGY—THE KNOW-NOTHINGS—GENERAL ESTILL.

Strong objection had been made among the Democrats opposed to Broderick, all over the State, to the candidacy of Governor John Bigler for a third term, and with some who followed after Broderick a similar feeling existed. This antagonism to Bigler was mainly on account of his position on the Kansas-Nebraska question, on which he maintained strenuous opposition to Senator Douglas and toward the administration of President Pierce; but others objected to his candidacy, because of his favoritism for Broderick, his support of the election scheme, his partiality toward men generally considered unworthy of public confidence in the dispensation of official patronage, and the public scandals incident to his administration of State affairs. Then, too, he had already been twice honored with the governorship, and it was thought he ought to give way to others more deserving and more popular. But it was very essential to Broderick's plan that Bigler should continue in the gubernatorial chair, and he was determined to retain him in it at the sacrifice of every other consideration than his own candidacy for the Senate. He also felt that unless Bigler should be renominated for Governor, his ambition for public station might come in conflict with his own for the senatorship, and thus out of his own ranks there would rise a competitor more formidable in some respects than any already opposed to him.

This question of the governorship had formed an interesting topic of discussion in the conference of the two committees, and it was finally agreed that the Carpenter's Hall faction should not press Bigler's name in the State Convention, and that Colonel Frank Washington should be the nominee. To this arrangement Broderick gave tacit assent. It was received at the time as a sort of peace-offering to placate the dissatisfied Gwin men, and, besides, as

something in the way of recompense for the action of the Broderick members of the Legislature of 1854, in taking the State printing from the firm in which Washington was a partner and giving it to the Broderick-Bigler firm of Redding & Co. Furthermore, Washington was beyond doubt, the most popular man in the State for the place. But deep down in his own heart Broderick had determined, notwithstanding all these considerations and the arrangement between the committees, that John Bigler and not Frank Washington should be the Democratic candidate for Governor in the ensuing campaign.

An unexpected and novel element in political affairs made its appearance, however, almost with the hour of his surprising victory in obtaining the mastery in his own party. It was the uprising of the Know-Nothing party. The movement had sprung into sudden life in the States eastward—in the great cities especially. It had been heard of in New Orleans, in Baltimore, and in New York. But it was in Boston and throughout New England that it appeared most formidable. Just what it was, its principles, its nature and its design—beyond the single fact that it was opposed to each of the old parties, Whig and Democrat, but mainly to the latter—none or very few seemed able to explain. So little was known of its real character in San Francisco, that, on the Sunday morning in June when the first meeting to organize a "wigwam" in this State was held, among the many who talked of joining it, merely to ascertain its nature and object, was Pat Canney, who had distinguished himself in the State Legislature, and who was then one of the most steadfast of the anti-Broderick Democrats, with a lucrative position in the Custom-house. He was of Irish birth, and a Roman Catholic, and it was not until he had been assured that the strange ephemeral organization was particularly directed against citizens of his race and his religion, that he desisted from his purpose, to become one of the most vigorous and vehement in its denunciation. Foremost in promoting and organizing the Know-Nothing movement in San Francisco and throughout

the State was William L. Hawks, commonly known as Bill Hawks, the son of the eminent Dr. Francis L. Hawks, of the Protestant Episcopal Church of New York and New Orleans. Hawks was a Whig, and had come from the interior with a reputation for conspicuous ability. Well-born, highly bred, educated to the law, intellectually gifted, brilliant in conversation, able in debate and a forcible orator, in the full vigor of early prime, of prepossessing manners and captivating address, he soon became a general favorite in his own party, and was much courted by his political opponents. He had contracted fast habits and was of dissolute turn. His most constant and apparently most intimate associate was Vi Turner, the professional sporting man, who had gained celebrity in his ways of life as a game and desperate man by his affair with Captain C. K. Garrison at Panama on his route to California in 1850, when, as the report went, he offered to fight a duel with pistols; the weapons to be placed at his own and the head of his antagonist.

Broderick and Turner were warm friends, and Turner, of Southern sympathies himself, had brought many other Southern men to Broderick's cause. Very naturally Hawks was similarly influenced; and, as a New Yorker, his sympathies and prejudices were more for Broderick, and against Gwin.

As Know-Nothingism progressed, Hawks became more and more influential in the organization, and he used his influence to much effect in Broderick's behalf, while he applied it also to his own advantage, and to break down the Democratic party. But Hawks was not alone in this double game of promoting the cause of a Democratic aspirant for a seat in the Senate while otherwise trying to defeat the Democratic party through the agency of the Know-Nothing movement.

Many of the supporters of the other aspirants—Dr. Gwin, General McDougall, and two or three more not so conspicuously announced—had adopted similar tactics, and joined the new proscriptive movement, the better to enable

them to plan and labor for the election of their favorite candidate; although all the while they openly acted with the Democratic party, and maintained their standing in it. The secret character of Know-Nothingism—its secret meetings in the "wigwams," to which the uninitiated could not gain admittance, and the impossibility to learn who were members of it, or to gain information of its proceedings, or its ticket—were difficulties which could not be overcome by any who did not belong to it; and hence, it happened that during the campaign, and at the election, adopted citizens who were Democrats or Whigs, and who were most implacable against Know-Nothingism and its membership, were all the time working and voting to nominate and elect upon their own party ticket the very men who had joined the hated organization for the express purpose of securing the coveted position; nor was the deception discovered until after the election, when the returns were made public, as the Know-Nothing tickets had been so cautiously handled at the polls that only those who voted them had seen them, or known the names of the candidates upon them.

The Know-Nothing movement had spread so mysteriously and so generally in the State, as to confound the leaders and managers of the Whig and Democratic parties. As it was practically an anti-Democratic movement, it virtually absorbed the Whig party; and a large number of the anti-Broderick Democrats, who had set their faces resolutely against the re-election of John Bigler as Governor, adopted this means to compass their purpose. The most formidable and most adroit of these was General James M. Estill, of Marin County, whose actual residence was in San Francisco. He had served in the Senate with Broderick, and had for years had been very close in his relations with Governor Bigler. A Kentuckian by birth, he had emigrated to California from Missouri, and early took his place as one of the leading spirits in the Democratic party. His sympathies were all Southern, and his political associations were mainly with men from that section.

But he was too sagacious a party leader to neglect or ignore the very large Northern element of the party, and he therefore formed friendship and alliance with its most conspicuous chief, Broderick himself, and with Bigler as next in rank and importance. Of huge frame and powerful mold physically, he was also the peer of the ablest in party tactics, and an acknowledged leader of a strong numerical force. He was, beyond comparison, the most fertile of expedients in manipulating party movements, and the most effective and one of the boldest in pressing these to a successful conclusion. His judgment was rarely at fault, and he possessed the faculty of winning to his side, in brief interview, the most violent of his personal adversaries.

The late Judge Daingerfield on one occasion left his home in Shasta to come to San Francisco, with the determination to make a personal assault upon General Estill the moment he should find him. He had bought a heavy cane purposely for that use. He nursed his wrath all the way, by stage and by steamboat, during the two days the journey occupied. In San Francisco he left the hotel, still resolute, on his angry mission. He unexpectedly met General Estill at the broad general entrance to Montgomery Block. But before he could raise his cane, General Estill's right arm was about his neck, in his accustomed manner of greeting old friends, while his left hand was grasping that of Judge Daingerfield, and instantly came the hearty salutation: "Why, Dainger, old boy, I'm delighted to see you! You must come and dine with me this evening; all at the house will be glad to see you." And Judge Daingerfield did dine that evening with General Estill and his very interesting family; from whom he received, sure enough, the cordial welcome and hearty greeting for which they were distinguished. On another occasion—it was in the Know-Nothing State Convention, in Sacramento, 1855—in order to accomplish the defeat of the late James W. Coffroth for the nomination of Governor, to make sure of the place for his bosom friend, J. Neely Johnson, he delivered the most scathing philippic against Coffroth, who was present and unable to effectively defend

himself, that was ever pronounced in the State; and yet, a few hours afterward, when Johnson had triumphed, and a monster ratification meeting was going on in front of the Orleans Hotel, General Estill entered the parlor with his arm about Coffroth, and led him to a seat near his accomplished daughters, as Damon might have led Pythias. Such was Estill's extraordinary fascination, address, and power over men; and he never failed to exercise it when the occasion required him to do so. He was the Ulysses of California politics in his time; as Broderick and Gwin might have been accounted, by their respective admirers, either as the Hector or the Achilles. General Estill had had cause to turn from Broderick and Bigler during the winter of 1854-55, and was now in the front rank of their most formidable opponents.

CHAPTER XII.

BRODERICK'S PLEDGE—HIS QUARREL WITH GEORGE WILKES—BIGLER'S RENOMINATION—BRODERICK'S CLASH WITH CHARLEY SCOTT—HIS TRIUMPH.

But General Estill was not the only Democrat of leading rank or prominence who had joined the Know-Nothings, and on the side of Broderick a fair share of these were enlisted in that organization. Coffroth went into the secret movement against his old party, and he remained steadfast to Broderick. Parker H. French also became a Know-Nothing, and conducted the chief organ of the party at Sacramento. Wilson Flint, one of the Senators elected from San Francisco, a New England man, who had been in Texas before he came to California, and whom the anti-Broderick Convention of Gwin and McDougall supporters had placed in nomination, was also ascertained to be devoted to Broderick, notwithstanding his pledge to the contrary, which he had freely given to the Convention. Yet it was the know-nothing vote which elected him. And Ferguson, of Sacramento, was another of the Democrats favorable to Mr. Broderick, who went over to the Know-Nothings. Others of less note adopted the same course.

Broderick had lost one of his ablest counselors, his closest confidant of past years—the wily George Wilkes. During the year, Judge Alex. Wells, of the Supreme Bench, had died, and Wilkes aspired to the lofty station. His very intimate relations with Broderick through so many years had wrought between himself and Governor Bigler similar warm friendship. Broderick had promised the full measure of his influence for the first vacancy on the bench to Senator Charley Bryan, of Yuba. It was a promise he intended faithfully to observe. Wilkes was aware of it, and therefore said nothing to Broderick of his own ambition to obtain the appointment now at the disposal of the Governor, but resolved to make his own application in person. Broderick and Wilkes were both the guests of Thomas Maguire, in

San Francisco, and had made his home their own. Wilkes hastened to Sacramento, shortly after the death of Judge Wells, called upon Governor Bigler, and made known the object of his visit. The Governor was taken by surprise. He had learned from Broderick's own lips, months before, of the promise to Bryan, but that was to be acquitted in the nominating convention and election; the contingency of death had not been discussed. And now that Broderick had neglected to visit him or write to him, in respect to Bryan, while the man of all others closest in Broderick's confidence had come, as the Governor naturally inferred, directly from Broderick himself, seeking the appointment, the conclusion to him was clear, that, despite all that had been said between them, Broderick really preferred Wilkes for the place. Wilkes pressed his application with so much tact and force, that he returned to San Francisco with his commission as Judge of the Supreme Court of California in his pocket. The first intimation Broderick had of the appointment, was the exhibition, by Wilkes, of the commission. He was more than surprised and astounded; he was, for the moment, dumb and almost blind with the tremendous rage which instantly possessed him. Then there burst from him such a torrent of malediction that Wilkes cowered before it. The scene was, happily for the two, and for Mr. Maguire, who witnessed it, very brief, but it was as the rush and fury of the hurricane blast, or the violence of the thunderbolt. He stormed upon Wilkes for his selfish preference in snatching at the first prize which offered, although he could not but know it must dash to the ground his fabric of the Senatorship, on which they both had been so long and so tirelessly engaged—the one as chief builder, and the other as architect. He accused him of seeking the ruin of all his own ambitious hopes for the accidental prize which had tumbled in his way, and he terribly imprecated that, come what might, all friendship and intercourse between them must be broken and cease forevermore. Now livid and anon purple with ungovernable anger, he turned from Wilkes to Maguire, and in strong words, but tremulous and hoarse

from excitement, he notified him that he could no longer remain in the house if Wilkes should continue in it; that the one or the other must depart, and at once. Wilkes did not require any notice or bidding. He packed his trunks and took his departure within an hour; returned the commission to Governor Bigler, and in a few days started for his old home in New York. The nature of the consequent interview between Broderick and Governor Bigler was never reported; but in due time the promised appointment was given to Charley Bryan; and thus his services in Broderick's behalf in the election scheme did not go unrewarded.

Deprived of his accustomed Mentor in his deep political maneuverings by his own impetuous rage, Broderick entered upon the difficult and arduous work of the campaign. It was no easy task to dragoon some of his own devoted supporters into his scheme to renominate Governor Bigler, and it was still harder to arrange any compromise by which the Gwin element could be brought to stand by Bigler in the event of his nomination. The alarming growth of Know-Nothingism seriously periled the chances of the Democratic ticket, and should that party carry both branches of the Legislature, little else than ruin to his cause could be reasonably anticipated. There still remained true to him Frank Tilford, whom he had made a District Judge, by appointment, in San Francisco; Tom Maguire, A. J. Butler, Ned McGowan, Mike Gray of Yuba, Jack McDougall of El Dorado, Captain Ackley, and other devoted friends; and John Conness and Elliott J. Moore, Wm. M. Lent, David Mahoney, John Middleton, A. A. Selover, Jo Palmer, Bob Woods, James McClatchey, Judge Sprague, Pablo de la Guerra, Covarrubias, John Baird, Humphrey Griffith, and many more who never joined the Know-Nothing movement, were his ablest counselors and substantial backers.

The Democratic State Convention met in Sacramento in June. Just before the meeting of that body, Colonel Washington became aware of Broderick's intention to defeat his nomination and to press Bigler for a third term. Unwilling to be a candidate under such circumstances, he

withdrew his name from the list. This devolved upon the anti-Broderick element the selection of another to stand as their candidate. Milton S. Latham was chosen. The anti-Broderick delegates outnumbered the Broderickites in the convention, but among them were a few who would not support Latham. Ex-Representative Jos. W. McCorkle was a delegate from Butte, with ten proxies. His eleven votes were enough to turn the scale either for or against Bigler, whom he disliked; but he hated Latham, for reasons already stated in these pages. Too late for organized action, a change in the candidate was anticipated by the anti-Bigler delegates. Judge Haun, of Yuba, was placed in nomination, but he would not consent to stand. Judge Walsh, of Nevada, was then proposed; he also declined. There was no other course for the anti-Broderick wing to adopt than to squarely meet the issue between Bigler and Latham, although Bigler's nomination would unquestionably be a Broderick victory, and therein a severe defeat of the Gwin wing. The roll-call on the question made the decision plain to all, before the vote of a half-dozen counties had been cast. The alphabetical arrangement brought Butte County third in order of call, and then McCorkle rose in his place to state that between Bigler and Latham, much as he disapproved of the official conduct of the Governor, he considered him eminently the best man of the two, and that under no consideration should he ever vote for Latham. His eleven votes then cast for Bigler virtually determined the issue. Sooner than to remain in the Convention, to be bound by the accustomed rule in respect to nominations, which imposed the obligation to support the whole ticket put in nomination, about forty of the anti-Broderick delegates at once seceded from the Convention. They were resolved never to vote for John Bigler, and they pleaded justification in their action from the fact that Broderick had violated the contract in relation to the candidacy of Colonel Frank Washington and the retirement of Bigler from the field.

An interesting episode occurred during the sitting of

the Convention. Among the delegates were Broderick himself, and his devoted friend, Horace Carpentier, from Alameda County; Charley Scott, of Tuolumne, a strong supporter of Dr. Gwin, and an ardent admirer, also, of Latham; and Colonel Jo McKibben, who stood foremost in the ranks of the Gwin and anti-Broderick, anti-Bigler division. The most important issue in the organization of the Convention was that of determining which sets of several contesting delegations should be admitted to the seats each set respectively claimed; and hence the chairmanship of the Convention and the Committee on Credentials were the chief objects to battle for. The anti-Broderick wing gained the temporary chairmanship, in the election of Charley Fairfax; and they scored another victory in securing the adoption of the resolution, that the Committee on Credentials should be constituted of one delegate for each of the uncontested counties—each delegation to choose its own member of the committee. The anti-Broderick wing had a large majority of the counties, although only a little more than a bare majority of all the delegates, inasmuch as several of the less populous counties sent but two or three delegates, while San Francisco, Sacramento, and other counties, which sent Broderick delegations, had very large representation—San Francisco alone having forty delegates, mostly for Broderick. The San Francisco delegation chose for their representative on the Committee on Credentials, a man named George, of bold, aggressive, stubborn nature, and a great admirer of Broderick; Horace Carpentier was chosen from the Alameda delegation; Charley Scott, from Tuolumne, and Jo McKibben, from Sierra. The Committee met at Pickwick Hall. Dr. Keene, of El Dorado, anti-Broderick, was chosen its chairman. The rule was made that none but the committee members should be allowed in the room. Broderick had disregarded this rule, and entered to participate in the proceedings, notwithstanding his own delegation had, by his direction, selected George for the committee-man. A motion was made that the committee go into executive session, and that all who were not

members be requested to withdraw. Broderick paid no attention to the motion, which was intended solely for him, as he was the only person not a member then present. Dr. Keene delayed the putting of the motion for a few minutes, in the hope that Broderick would retire. As he did not, the motion was put and carried without dissent. Still Broderick remained. Dr. Keene then notified him of the situation, and requested him to withdraw. Broderick stood at the lower end of the long hall; Charley Scott sat at the upper end; Jo McKibben occupied a seat about midway along the wall, near Horace Carpentier. Upon the notification from Dr. Keene, Broderick commenced to speak in defense of his conduct. His words were drowned in the cries, "Retire!" "Quit the hall!" "Get out!" "Shut up!" "Put him out!" from all parts of the hall. He grew instantly white with anger, and shouted his defiance. The members rose to their feet, and an ugly scene was imminent. Carpentier undertook to defend Broderick, and was instantly silenced by McKibben. At that moment Scott advanced toward the center of the hall, and in a vehement manner denounced Broderick's conduct, and then bitterly assailed his character as a man. The terms, "coarse shoulder-hitter," and "insolent bully," were plainly heard above the general uproar. Scott kept advancing with deliberate step toward the lower part of the hall where Broderick still kept his place. At last a threat of personal chastisement came from his lips. He was of low stature and slender frame, and by no means capable of encountering Broderick in a trial of strength in violent contest. But in his pocket he carried a derringer, and it was believed that he would never fail to use it in an emergency.

Broderick had not moved from his place during all the wild scene. But the instant the threat was uttered, he started toward Scott with every indication of clashing with him at once. His dark-blue eyes glistened with the fierce fire of his aroused passion. He moved with long strides, not quickly but with manifest determination, and his large, powerful, nervous frame appeared to grow in size and increase in power with each stride. He looked the incarnation

of barely suppressed rage, unable much longer to endure the maddening strain. His face was as of marble infused with life, rigid in the set of every feature, and intense with the violence which impelled him. He neither quickened nor slackened his pace; he balked not, but moved straight on, his hands alone betokening the fury of his purpose, as his clenched fists closed tighter for the blows he clearly meant to shower upon his assailant. Meanwhile Charley Scott had kept advancing with less haste, until the moment when Broderick had reduced the space between them, to about three or four paces. Then Scott halted; his face suddenly revealed irresolution, his right hand nervously twitched, and his light frame perceptibly quivered with irrepressible emotion. His next movement was retrograde, but still facing his advancing adversary, who then for the first time broke the awful silence he had so far maintained, by a most offensive expletive and terrible oaths. He spoke with his teeth clenched, and the insulting words came with a distinctness and force that added venom to the hissing scorn with which they were delivered, while his eyes flamed with admixture of wrath and despisal, and the veins of his forehead swelled to the semblance of whip-cords. He raised his arms as he spoke, loosed and again drew tight his fingers with a measured contraction toward the palm, and then gripped them, as though he held the object of his rage and loathing squirming in his insatiate grasp. And as Scott retreated, he moved upon him faster, changing his manner of speech to loud and viler insult and defiance. Another instant, and the encounter must have come; but, in a flash, McKibben, who had thus far watched the two with intense feeling, rushed before Broderick and stopped him from one other step. Scott was quickly surrounded by friends and led to his seat. Broderick was placated, and soon after left the hall. His supporters had not stood by him as they might have done, and though he quitted the scene with partial satisfaction, he had cause to feel aggrieved. The result of the committee's deliberations added fuel to his angry fire, and the Convention sustained the action of the committee.

CHAPTER XIII.

THE CAMPAIGN OF 1855—KNOW-NOTHING VICTORY—THE SENATORIAL ELECTION DEFEATED—GOVERNOR FOOTE AND COLONEL MARSHALL—SCENE BETWEEN FOOTE AND A. J. BUTLER.

In the nomination of Bigler, and the general make-up of the ticket, after the secession of a portion of the Gwin delegates, Broderick was amply satisfied, so far as the results of the Convention were concerned. Once more he had found the majority against him at the opening of the struggle, and again he had managed to overcome a formidable opposition—to extract or extort victory from a force which had threatened defeat. But the vital struggle was still to come, and this the people would decide at the polls. Know-Nothingism overspread the State. It comprised almost the entire Whig party, all who were opposed to the Democratic party, and were not of foreign birth; and, as the Know-Nothing Convention had expunged the anti-Catholic plank of the platform, the movement was joined or aided by voters of that faith of American nativity. As a consequence of Bigler's renomination, the remainder of the Democratic ticket was notoriously weak—the candidate for one of the most important fiduciary offices was a gambler, and another of the candidates equally as unworthy and unpopular. It was against Bigler, however, that the opposition mainly centered. General Estill assailed his administration and Bigler himself, in his powerful "Rube Roper" letters, from his ample armory of facts and circumstances, which could not be refuted, and that Bigler knew not how to meet or answer. Parker H. French turned upon him, also, the columns of his Sacramento *Tribune*, in the coarsest and most damaging style. And, to make matters more disheartening for him in the campaign, a dozen or more of the ablest Democratic editors in the State retired from their papers, and desisted from all exertion for the ticket during the canvass. J. Neely Johnson was the Know-Nothing candidate

against Bigler, and he was popular. A pioneer, an old Whig, a man of generous impulses and prepossessing manners, he stood well with many Democrats in the State; and on account of his activity in measures to relieve needy emigrants on the overland journey to California, in the early days of the gold-fever rush, that class—now become substantial citizens and influential among their neighbors—felt kindly toward him, although they were mainly opposed to him in politics.

The whole Know-Nothing State ticket was strong in the essential element of popularity. On it were Judge David S. Terry, Judge Wallace, and David F. Douglas, who was a tower of strength in his own district, with a record difficult to assail. As local leaders were James T. Farley, C. T. Ryland, W. I. Ferguson, C. Westmoreland, Judge Dibble, Judge Sawyer of Amador, and Coffroth; and foremost in broader distinction were ex-Senator and ex-Governor Foote, of Mississippi, Colonel E. C. Marshall, and Henry A. Crabb.

The Know-Nothings swept the State in the September election, carrying also the Legislature, with a bare majority in the Senate, but with the Assembly largely their own. It then required each House to vote to go into Joint Convention to elect a United States Senator, and there was no law obliging the two Houses to go into such election. Governor Foote, Colonel Marshall and Crabb were the rival candidates for senator. When the Legislature met, in January, 1856, it was the general impression that the election of one of these distinguished leaders was a foregone conclusion. But neither Broderick nor Gwin despaired of preventing an election at that session, and, this accomplished, under better management, the Democrats would be able to triumph at the polls in the succeeding election for Senators and Assemblymen. Each had devoted friends in the Legislature among the Know-Nothings; and much faith was reposed in the action of Wilson Flint and Colonel Rust in the Senate, to defeat any motion for going into Joint Convention. The end proved the correctness of this trust. After a protracted attempt to secure a majority in the Senate for

Convention and the election of a Senator to succeed to Dr. Gwin's vacated seat, the session closed without an election, and Broderick and Gwin alike hailed the non-action of the Know-Nothings as the ground for fresh hope for themselves in the election of the next Legislature—each as a matter of course, confident of his own ability to obtain the great prize.

It was a stormy time the Know-Nothings had in their futile efforts to elect a Senator. Governor Foote was of exceedingly sanguine temperament, and early in the session regarded his own election as an event certain to occur. Marshall was hopeful, but of cooler judgment and less impulsive. He wished to secure the lofty place, yet it would cause him no serious discomfiture if he should fail to do so. He struggled manfully to gain it; in no other way would he struggle. But Governor Foote wanted it with all the fervor of his ardent nature; and while he would not trick for it, neither would he be tricked out of it without ample demonstration of his indignation at anything of the kind. He was one of the most courteous of men; kind-hearted, of generous impulse, quick to deeds of noble quality or compassion, averse to personal animosities, incapable of malignance, ready to forgive wrongs, and slow to avenge offense, unless it was purposely insulting. But when convinced that insult was premeditated and intended, electricity was not quicker than his passion, and this was invincibly sustained with an intensity of courage which made him absolutely fearless in every emergency. He would dare the tiger in his jungle sooner than neglect to vindicate what he believed to be his honor and his duty. Of low stature, slight figure, and delicately molded, he had nerves of steel, and an equipoise of manner which no danger could disconcert. Gifted in speech, persuasive in address, invariably polite, with an easy dignity in intercourse, and prone to imagery in his conversation and popular harangues, he was a delightful companion and a fascinating speaker. He had little pride of place, none whatever of ostentation, but in pride of what he considered due himself as a man he stood without supe-

rior. Governor Foote had left the Democratic party to champion the Know-Nothing cause. He had canvassed the State for the party. And by reason of his years, his distinction and services, he believed he was justly entitled to the senatorship. Yet he gallantly acknowledged the rival claims to the high station of his chief competitor, the brilliant and eloquent Ned Marshall, whose matchless stump oratory had proved so very effective in the campaign. Crabbe had quite early discovered that there would be no election, through treachery of some of his own party, in Broderick's interest.

Governor Foote became incensed, however, during the session of the Legislature, at the candidacy of Senator Ferguson of Sacramento, whose claims to the Senate of the United States he was not disposed to recognize on any grounds. Ferguson was a young man of great local popularity, a little above thirty years of age, of handsome person and captivating manners. Intellectual, highly-educated, learned and able in the profession of the law, of genial habits and fond of company, he had made his way in Sacramento the front rank of barristers and political favorites. The same as Foote and Marshall, he had left the Democratic party to join the Know-Nothings. His fondness for animated society had led him into fast ways of life, and his inclination to enjoy and to furnish subjects of humor or downright fun, sometimes warped him from the dignified demeanor expected of one in his station in the community. Spirited, vivacious, and bouyant in his relaxation from professional duties; noted as a wit and also as a *bon vivant*, he had won for himself, through his habitual indulgence in song while in spells of wild hilarity of the unrestraint of that period of California development, the queer and suggestive *sobriquet* of "Yip-se-doodle." And very naturally this, in conjunction with the cause of its application, militated against the dignity and decorum which belong to men of his ability and station. To have a man like this pitted against himself, for so grand a position as that of United States Senator,

was, Governor Foote thought somewhat of a reflection upon his own dignity and rank, and in that aspect he certainly regarded it. Still, it was a matter which he could not openly resent or notice. Nevertheless it irritated him, and he was too ingenuous to conceal his mortification. The effect of this discovery—not altogether expected— caused Ferguson to further press his advantage over Governor Foote, until finally forbearance ceased to be a virtue.

Governor Foote had apartments in the Orleans Hotel, near to those occupied by Dr. Gwin, between whom the friendliest relations subsisted. Colonel A. J. Butler, Broderick's chief henchman, roomed in the same hall. He was a large, burly, heavy proportioned man, upwards of six feet in stature; of bold, familiar manners; caring little for rank or character in any way, and never doubtful of his own ability to mold or overcome opposing natures by his peculiar arts and the potential means he usually supplied. But he had evidently misjudged Governor Foote, with whom his acquaintance had been casual, and never could become intimate. One night, at a late hour, while the senatorial struggle was at its hottest, and the "Yip-se-doodle" candidacy had begun to prove most annoying to Governor Foote, he and Butler met in the hall, almost in front of Dr. Gwin's door, who was sitting alone in his room. Butler detained the Governor to impart to him some rumors of the election crisis, and Foote pleasantly responded to the trifles of badinage with which Butler seasoned his remarks. Presuming upon the veteran statesman's amiability, Butler next essayed a stinging thrust, with "Yip-se-doodle" as its base and barb. Instantly Governor Foote comprehended his purpose, and before Butler could escape he caught him with both hands by the lapels of his coat, and poured forth a volume of burning wrath, fierce with intimation of more effective measures of redress, and accompanied with warning that was intended also for Ferguson. Huge as Butler's great form appeared in contrast with the diminutive figure of his irate master of the mo-

ment, the semblance otherwise was remindful of the story of David and Goliath. How the matter might have ended, had not Dr. Gwin, aroused by the altercation, gone out from his room and called Governor Foote away from the singular encounter, it would be vain to surmise. But from that night, never again during that session, was Governor Foote annoyed, in a personal way, by mention of "Yip-se-doodle." He lost the Senatorship, but he maintained his dignity.

CHAPTER XIV.

BREAKDOWN OF THE KNOW-NOTHING ADMINISTRATION—THE BRODERICK AND GWIN BARGAIN—BRODERICK AGAINST WELLER—OTHER CANDIDATES AGAINST GWIN.

The inability of the Know-Nothings in the Legislature of 1856 to elect a United States Senator to succeed to the seat vacated by Dr. Gwin, March 3rd, 1855, gave fresh hope and confidence to Broderick and Gwin alike, in the pursuit of their own candidacy for the place. At all events, it had become certain that the Know-Nothings would not again possess the opportunity to elect the Senator, for their extraordinary success, instead of strengthening their organization, proved the cause of dividing, weakening, and very nearly dismembering it. There were in it too many of the discarded or sore-headed hacks and office-seekers and spoils-hunters of the old party organizations; and with them, a large admixture of those entirely raw and inexperienced, as well as incompetent, in public life, besides the bitterly proscriptive element, which had joined the party solely because it was proscriptive, and directed its proscriptiveness against adopted citizens—the Irish particularly, and next in order the Germans. Then, too, notwithstanding the action of their State Convention in expunging the anti-Catholic plank of the party platform, which was one of the main objects of the organization in the older States, a considerable proportion of the rank and file in California became dissatisfied because the Catholics were not to be persecuted. But the strongest disintegrating power to destroy the party was the reactionary movement among the people, who had with impatience watched the odious legislation of the session, and become thoroughly disgusted with the bad faith, the broken pledges to reform abuses, and the flagrant dishonesty which characterized the Know-Nothing Legislature and some of the State offi-

cials. The loss of $120,000 from the State Treasury, by some mysterious hocus-pocus between Treasurer Bates and Palmer, Cook, & Co., was a theme for indignation, founded on substantial ground; and the public confidence was so shaken in the integrity of the administration that the Know-Nothings in each House felt it incumbent upon them to pass the Democratic measure which provided that, thereafter, no moneys should be paid out of the State Treasury without the audit of a Board of Examiners, with the certificate of an expert in addition to all the printing accounts; and this law still remains upon the statute-book. It was the virtual enforcement of a statutory declaration that the Know-Nothing government could not be trusted in handling or keeping the public moneys, by the votes of the members of the very party which was thus popularly impeached.

A different phase was now imparted to the senatorial election. The Legislature to convene January 5th, 1857, would be called upon to elect two United States Senators instead of only one, as the term for which Senator John B. Weller was chosen would expire March 3rd of that year. In consideration of this fact, and because of the acrimony, schism, disaffection, and fierce partisan hostility, which had marked the long-protracted struggle of the Broderick and Gwin factions, and owing to the conduct of the anti-Broderick wing opposed to Dr. Gwin—especially of those who supported General McDougall—the friends of Gwin thought that an arrangement might be effected which would discontinue that hostility and tend to the restoration of harmony and unity in the party. And this was the more important, because in the year then begun the Presidential campaign must be fought, wherein there ought to be neither dissension nor division. Acting upon this idea, a preliminary conference was held by a few of Dr. Gwin's most trusted friends, and a favorable conclusion, so far as they were concerned, was reached. Accordingly, one day in April, a friend of Dr. Gwin called upon Mr. Broderick for the pur-

pose of discussing, or, if possible, of arranging the matter. The interview took place in the office of Charles Carter, a real estate agent, in the rear of the auction room of Selover & Sinton, on Merchant Street above Montgomery. During a meeting which lasted two hours, the arrangement was concluded to the mutual satisfaction of the parties most involved. In essential points, it was to this effect: That Broderick should withdraw from candidacy for the seat in the Senate to which Gwin aspired as his own successor, (the term to expire March 3rd, 1861) and become a candidate instead for the seat which Weller would vacate March 3rd, 1857, to expire March 3rd, 1863; that, to this end, Broderick and Gwin alike should cease to oppose one another, and, so far as each could, to induce his respective supporters to aid in a vote for the election of the other; and that the anti-Broderick County Committee, of which a firm supporter of Dr. Gwin was chairman, should disorganize and leave the field to Broderick, by recognizing his County Committee as the local organization of the Democratic party in San Francisco.

This was the contract by which the "Broderick and Gwin fight," as it had been continued and bitterly prosecuted for more than three years, was at last composed and terminated. During the interview Mr. Broderick frankly declared his unalterable determination to occupy a seat in the Senate of the United States. In the height of his strong expression of the ambition which possessed him, he rose from his seat, paced the small room, his whole nature roused in the contemplation of his purpose; and then, turning suddenly upon the person with whom he was engaged, he spoke with the manifest deep feeling of every word he uttered: "I tell you, sir, by God, that for one hour's seat in the Senate of the United States, I would roast before a slow fire in the plaza!" He paused for a moment, reviewed the conduct of professed friends who had abandoned or betrayed him, and then, in his terribly earnest, impressive manner, resumed: "Talk of friends! I have a few who are; but I

know others, damn them! for I have paid for them, and know the quality of their friendship. In the session of 1854 they cost me one hundred and seventy-five thousand dollars. They have nearly beggared me. There was H——, he was my friend; but to vote for me that year he had to be paid $1,200; then he wanted a gold watch; and after that was given him, he demanded a gold chain. I told Billy Graham to buy the dog a slide and a ribbon, and if he was not satisfied with that, he might go to hell."

In similar strain he continued, about others of like corrupt and base nature with H——, and concluded his extraordinary burst of passionate review and invective with this: "Ah, yes, I know these friends! I am going to that Senate. I'll go if I have to march over a thousand corpses, and every corpse a friend!"

In conformity with the arrangement then made, the friend of Dr. Gwin who participated in it visited various portions of the State to carry out the terms agreed upon, to the extent of his ability. Many of the ardent Gwin advocates were found, however, to be so set in their hostility to defeat Broderick and oust him from power and position in the party, that it was deemed inadvisable to impart to them any information of the bargain, or to even hint the possibility of such a compromise of the old feud. Others viewed it as a contest between leaders, in which the party itself was sacrificed, and that must, sooner or later, bring it into inglorious and ruinous defeat. They bore no personal animosity toward Broderick; they supported Dr. Gwin from the earnest conviction that he was, by all odds, the greatest, the ablest, the truest, and the most deserving Democratic leader in the State—one of the greatest and most influential statesman, in fact, in the Union; and hence, if he desired to have Broderick as his colleague, or was willing that he should be, they would cordially lend him their aid to promote the election of the two, in the manner suggested. And still others, who stood by Dr. Gwin, as many of Broderick's devotees stood by him, were found,

to whom it was necessary only to state what was expected of them—they were prepared to receive and obey orders, be they what they might, so long as they came from or had the sanction of Dr. Gwin.

While the preparations for the primary meetings and county conventions were progressing, the names of other aspirants for the senatorship were announced. Senator Weller would certainly be a candidate for the succession to his own seat; and his friends determined to spare no means to secure his return. They were mainly Western men; but he had also devoted supporters among Southern Democrats, and those from the North, who stood by the Kansas-Nebraska Bill. Weller was from Ohio. He had once been the Democratic candidate for Governor of that State; had commanded an Ohio regiment in the war with Mexico; and upon the installation of the Taylor administration, he had succeeded in obtaining an appointment as one of the Commissioners to establish the boundary line between the United States and Mexico. This service had brought him to California at an early day, during the rush to the gold placers, and he had resigned his commissionership to pursue his fortunes in the golden State, as lawyer, and in the way of public life. His election to the Senate in 1852 was a victory over Broderick, who had then first proclaimed his own candidacy. John B. Weller was a large, portly, fine-looking man, of high order of ability, engaging manners, and, although a popular favorite, preserved a good deal of that graceful dignity which is consonant with greatness of character and exalted station. He was proud-spirited, without being haughty; genial in his intercourse with men generally; generous in his dealings with all, and a man of warm and strong attachments. Although he had been much in public life, he was little of a politician, and disdained the artifices which largely prevailed in party management, affecting candidacy and elections. An indulgent friend, he was also an unyielding hater, and was much more disposed to overlook the grave fault of one whom he cherished, than

to condone the errors of any he disliked. Personally fond of enjoying the good things of life, and very companionable in his easy manner of these enjoyments, he sometimes omitted, rather than neglected, to utilize opportunities presented for his own benefit, or that of his friends, in official and political matters.

With a lofty sense of honor he had invariably refused to stoop to the devices and means sometimes practiced by men who sought places of honorable distinction, and neither his circumstances nor his sentiments of propriety allowed him to engage in the questionable use of money to promote or consummate his political advancement. And a natural indolence in the performance of duties connected with campaigning, as well as in official station, somewhat impaired the power and influence he might have exercised. His record as Senator was good, but it was not signally marked by any conspicuous measure or event. In devotion and fidelity to his party and his State it was without flaw and above criticism, and he had tenaciously battled for the appointment and maintenance of his friends in Federal office; but in comparison with Dr. Gwin, while the colleague of that Senator, his efficiency in this respect was materially unequal, and a few of his appointments were not popular—hardly defensible—on party grounds. That of General Richardson, as United States Marshal, was of this latter class. These appointments had the merit, however, of personal devotion and the reward of faithful friendship, and in that sense they brought to his cause active workers, while others either grew luke-warm or abandoned his support on account of them. And he numbered among his truest adherents such steady, thorough, able, and influential Democratic managers as Colonel Ferris Forman, Philip A. Roach, Thos. J. Sutherland, Jo Walkup, and Judge Solomon Heydenfeldt.

It was now generally understood that Broderick would be a candidate against Weller, as he had been in 1852, and no others were named in a public way for that seat. General

McDougall had fallen out of candidacy by common report, and was no longer considered formidable in the event of effort to press his name. Major Hammond had altogether retired. But Dr. Gwin found a much stronger rival than either of these had been to contest with him the succession to the seat he had occupied; and there were still others of greater or less rank and popularity also in the field, among whom Colonel Frank Washington and Judge Stephen J. Field were the most prominent. Washington had thereunto been one of Gwin's firmest supporters, and commanded a large following throughout the State. A Virginian by birth, of grand stature and presence, and greatly admired for his personal worth as much as for his masterly ability as the leading Democratic writer of the State, Colonel Washington's candidacy threatened a serious inroad upon Dr. Gwin's forces, as his friends were mainly drawn from the ranks of that acknowledged chieftain of the southern element of the party. Judge Field's pretensions were never considered alarming, except only in so far as the very few votes he might control in either House or in Joint Convention should affect Dr. Gwin in the event of a close issue between himself and the next highest competitor. He had always been a Broderick man, and his Democracy was less a known quantity than his unquestioned excellence as a lawyer, or one profoundly versed in the law. The mortal dread he had of Judge Turner, brother of the notorious Vi Turner, an irascible and rather reckless character, whose chief political capital was a letter which Henry Clay had written in his commendation in an impulse of kindliness not tempered with judgment, and upon which he had importuned himself into the judicial position for which he had no apparent or real qualifications, had wrought prejudices against Judge Field in the minds of many, as at that period of California life any exhibition of craven spirit or fear of personal chastisement, or the lack of readiness to seek or demand redress for personal affront or injury, was viewed as a want of the kind of mettle required in a popular leader.

And yet, in the personal difficulty which Judge Turner's outrageous conduct toward Judge Field had caused, the behavior of the latter was generally admitted to be no more than discretion on the part of one who was averse to violent encounters. Turner was the sitting Judge, Field the lawyer with a case before the Court, and the Judge had exercised his advantage of place in almost brutal manner. Field had no alternative but to yield at the moment; no remedy or redress subsequently except by fighting for it, with the chances materially against him; and he was never a "fighting man," as the term was then current.

CHAPTER XV.

CANDIDACY OF MILTON S. LATHAM — BRODERICK AND THE VIGILANCE COMMITTEE — HIS "STILL HUNTING" — THE STATE CONVENTION, THE ELECTION, THE LEGISLATURE.

The competitor for the Senate whom Dr. Gwin had most cause to fear was Milton S. Latham, Collector of the Port of San Francisco. Mr. Latham had so far been one of the most fortunate of California politicians. He was a native of Ohio; had lived in Alabama a number of years; was in the full vigor of early manhood; talented, gifted, of exemplary habits, easy manners, captivating address; assiduous in the performance of the public duties devolved upon him; honorable in his dealings in the business world; careful, shrewd, and possessed of uncommonly sound judgment in all transactions, whether in the field of politics or in the acquisition of property and financial matters; and had accumulated already what was then considered an ample fortune.

His marriage with Miss Sophia Birdsall, whose father was then Superintendent of the Branch Mint at San Francisco—she the admired "Prairie Belle" of brilliant intellectual endowments, and celebrated for her superior literary accomplishments—was to him a singularly happy alliance; and his pathway in life had, from the time of his arrival in California in the primitive period of the gold fever, been all in the sunshine of prosperity. From clerk to Frank Tilford, in the office of the Recorder in San Francisco, he had made his way to local distinguishment at the Sacramento Bar; had gained the election to Congress; and from that had so won the esteem and confidence of President Pierce and Secretary Guthrie (head of the Treasury Department), as to receive, unsolicited, the firstrate appointment as Collector of Customs at San Francisco. The Northern element of the Democratic party liked him, and he was the favorite of many of the prominent men of the Southern element.

Also some of the men who conspicuously supported Broderick for the Senate favored the election of Latham as his colleague, in preference to any other; and, among these, was John Conness, then no longer in the Legislature, having been overwhelmed in the flood of Know-Nothingism which had swept the State in 1855 and defeated him in the fall election of 1856.

As Collector, Latham possessed large influence, for he used the patronage of the Custom-house to promote his own election; and the removal from office in it of Gwin men manifested that he did not intend to allow his former friendliness toward the ex-Senator, to whose succession he now himself aspired, to stand at all in the way of his efforts to win the grand prize. Sooner than lose their places, some of those who had hitherto stood firmly to Gwin abandoned his cause and went over to Latham. Others, who had worked for either Gwin, or McDougall, or Hammond, adopted a similar course in order to obtain place in the Custom-house.

But Dr. Gwin had still left to his support the patronage of the Naval Office, with his most devoted of old Mississippi friends, Major Wm. B. Dameron, at its head; and that of the office of Surveyor of the Port, whose chief was Wm. Van Voorhies, a Tennessean, who had been Secretary of State under the first State administration, and was one of the most effective stump speakers in the Democratic party. As contrasted with the large patronage of the Custom-house, however, the combined patronage of the Naval Office and Surveyorship of the Port was inconsiderable. The Postal Agent, Colonel John D. Fry, and Postmasters Weller and Forman, of San Francisco and Sacramento, were for Gwin and Weller, and Colonel Henley, Indian Superintendent, and most of the other Federal officers of the State, were similarly disposed; although some of them, in view of Latham's uninterrupted line of success in accomplishing whatever he undertook in public life, with the uncertainty of affairs involved in the presidential election of that year, and their chances for re-appointment from the new administration

consequent, wavered or hesitated between Gwin, Weller and Latham.

The State Convention assembled in Sacramento to nominate candidates for Congress. General Denver was a candidate for re-nomination. Herbert's fitful, tragic deed, in slaying an Irish waiter in Washington, had forced him from the field; and Charles L. Scott, who had been the devoted friend of Gwin, was the favorite of the anti-Broderick element for the succession to Herbert's seat. Colonel Jo C. McKibben, who had uniformly championed Gwin's cause, and vigorously opposed Broderick, was also a candidate. McKibben was strongly averse to Latham for Senator. He was not objectionable to the friends of either McDougall or Hammond, and Colonel Frank Washington preferred him to any other candidate for Denver's place. The Convention was so largely anti-Broderick that it was hopeless for any on that side to seek a nomination. But Frank Tilford, nevertheless, presented his name for the Southern District—that filled by Phil. Herbert. The struggle ended by the nomination of McKibben and Scott, both considered sound on the Kansas-Nebraska issue then before the country.

During the late spring of that year, the lamentable and very unfortunate shooting of James King of William in San Francisco, by James P. Casey, who had been a Supervisor and Assistant Treasurer of the city and county, caused the organization of the second Vigilance Committee, which in brief time seized practical control of the local government, and usurped the authority and functions of the courts of justice in criminal cases. The Committee made vigorous crusade against the class commonly known as roughs and ballot-box stuffers, and desperate characters; and in pursuance of the means adopted to suppress or drive this class from the State, the Committee arrested, imprisoned in its improvised "Fort Gunny-bags"—the upper floor of the store of Henry B. and Myers F. Truett, corner of Sacramento and Front Streets—and forcibly banished, by

ocean steamers to Panama, several of the conspicuous leaders of that class. Casey was hanged; the notorious prize-fighter, "Yankee Sullivan," was found dead, from a wound in his arm and loss of blood, in his cell; and among the number banished from the State, by steamships, were Charley Duane, ex-Chief Engineer of the San Francisco Fire Department, Billy Mulligan, and Bill Lewis, a huge bully of the boatman class, and a terror to those he did not like. Judge Ned McGowan was hunted for his life, and escaped death by the rope only by his extraordinary cunning in evading his merciless pursuers, and the unfailing fidelity of his many devoted friends. Rube Maloney was also one of the captured and imprisoned victims, and was glad enough to get out of the clutches of the Committee by exile.

Shortly after the organization of the Committee, and before the hanging of Casey, Broderick and Jo McKibben were "invited" and escorted to the committee rooms, by the officers of the Committee, and the extraordinary double event created much curiosity or excited great consternation in the circles of their respective friends and in the community generally. But the two soon afterwards, the same evening, returned to their accustomed places of resort, and the wonder and alarm thereupon subsided. They had been summoned simply to give evidence in respect to the shooting of King by Casey, and as to Casey's character. But the arrest of some, and the notification of arrest, unless flight should make it unnecessary, of others, mostly the supporters or friends of Broderick, were circumstances which, too plainly to be misinterpreted, signified that his followers mainly were to be proscribed and pursued.

Yet Dr. Gwin and General McDougall and Major Hammond were as stoutly and strenuously opposed to the usurpation and lawless rule of the Vigilance Committee as Mr. Broderick. And there were several members of the executive committee of the Vigilance Committee who had engaged or participated in, directly and indirectly, the grossly ir-

regular practices of electioneering, by what was termed the "ballot-box stuffing" process, to secure the election of themselves or their favorites for office, as deeply and as criminally as had any of the persons the Committee had arrested or expatriated. The effect of these arrests and banishments was, however, such as to impel a round number of Mr. Broderick's most active local supporters and "workers" to leave the city and take refuge in interior portions of the State, where the popular sentiment was strong against the Committee. And at last Mr. Broderick himself and Colonel E. D. Baker found it advisable also to withdraw from San Francisco, and seek the more friendly association of their respective admirers, champions, and Anti-Vigilance sympathizers in the interior counties.

Broderick utilized the months he remained away from the city in visiting his friends, and "still-hunting" for the fall campaign; to succeed, if possible, in the State Convention, but chiefly in the preparation of the Legislative tickets and the election. Frank Tilford was his chosen companion in this tour to most of the places he visited; and while Broderick sought the support of men of Southern ideas in party matters, he was open in his avowals to Northern men that the time had arrived for them to make a firm stand against the encroachment, the aggression, and the intolerable supremacy of the Southern element over the whole country, and in California particularly.

The composition of the State Convention that year demonstrated that Broderick had not succeeded in his efforts to gain the ascendancy of his supporters in that body, and the result of the election further proved that he had not entirely succeeded in gaining the Legislature. Still he had prospered fairly, and quite sanguinely counted upon his own election as United States Senator. The State had gone for Buchanan, McKibben and Scott were elected to Congress, and the Democrats had a large majority in each branch of the Legislature.

That body convened at Sacramento, Monday, January

5th, 1857. It soon became apparent, that Broderick did not consider as binding upon him the arrangement he had made in connection with Gwin's candidacy with the friend of Gwin in the preceding April; that he did not favor Gwin for his colleague, in the event of his own election as Senator; and that he preferred for that place, above all others, no other than Judge McCorkle, certainly the bitterest personal and partisan foe to Latham in the State, and perhaps quite as strongly opposed to Dr. Gwin. But this was not an open secret; it was known only to a chosen trusted few of Broderick's most confidential friends, from one of whom it was, however, communicated to a faithful adherent of Gwin. It was not suspected by some of Broderick's own devoted supporters; and by others of the same sentiment and disposition it was ridiculed as utterly fallacious, and without foundation in truth. It was, notwithstanding, absolutely the fact; the only difficulty in the way of its accomplishment was the obtainment of votes enough to secure McCorkle's election. The important fact was, that, in this preference, Broderick's purpose then became revealed.

CHAPTER XVI.

BRODERICK'S DISAPPOINTMENT—HIS PROPOSITION TO JUDGE HEYDENFELDT—ANOTHER BOLD MOVE TO WIN —CONCERNING MEMBERS OF THE LEGISLATURE.

Mr. Broderick was in a position to accurately learn of every Senator and Assemblyman upon whom he could positively or probably depend. After a careful count he found he lacked at least two votes. Senator Weller was then in his place in Washington. His candidacy for re-election had been entrusted to Judge Solomon Heydenfeldt, who was the most popular and the ablest of all the friends of Weller in the State; and, by reason of his invariable suavity of manners, his broad conservatism in dealing with men, his honorable bearing in every respect, and the great confidence reposed in him by friends and foes alike in whatever concerned conscience or duty, in very way the most competent for the difficult and delicate trust. Between Broderick and Judge Heydenfeldt a friendly personal feeling subsisted, although in their beliefs and sympathies with respect to the chief issues which disturbed and threatened the complete harmony of the Democratic party, the two were antipodal.

Mr. Broderick sent a message to Judge Heydenfeldt, requesting a conference. It was formally responded to, and, upon appointment, Judge Heydenfeldt went from his headquarters in the Orleans Hotel to Mr. Broderick's room—No. 6—in the Magnolia House, then the Broderick headquarters. There, in confidence for the occasion, Mr. Broderick imparted to Judge Heydenfeldt the fact that he wanted two votes to accomplish his purpose, and made the proposition that, if two votes could be assured him without doubt or failure from the ranks of the Weller men, he would in return assure the election of Weller to the seat for which Dr. Gwin was a candidate. Judge Heydenfeldt asked why the change had been made in Mr. Broderick's

programme, by which he had ceased his candidacy for Gwin's succession, and become a candidate for the seat occupied by Weller—a movement which had surprised himself and Weller's friends generally, and which he and they very much disapproved of and objected to.

Mr. Broderick explained that he had been moved to the change of candidacy from several motives and reasons. First, the succession to Gwin's seat would give him only four years in the Senate, as two years had already expired without the vacancy having been filled; while an election to succeed Weller would give him the seat for the full term of six years—a weighty consideration of itself. But above and beyond this, the more important consideration was the restoration of unity and harmony in the Democratic party in the State, by the removal, as a disturbing cause so long agitated, of the cause of feud waged during the past three or four years between the Broderick and Gwin factions or wings. It was this angry feud which had disturbed and divided the party, caused its defeat by the Know-Nothings, and that still affected it to such demoralization and disaster that his friends in San Francisco were no longer in public position, in the enjoyment of official patronage, or able to yield to himself the measure of aid and assistance he required, through the inability of the Democrats to carry the local elections for city and county offices. To put a stop to this undignified, acrimonious, destroying feud, and to promote the restoration of unity and harmony in the Democratic ranks, in San Francisco as well as in the State, so as to enable the Democrats to carry the municipal election in the city, and the county elections throughout California, as they could if united and harmonious, was his chief desire, his uppermost purpose. He was ready and willing to make almost any sacrifice to such a consummation. And in this spirit he had abandoned his direct antagonism to Dr. Gwin and his candidacy for the seat that Gwin desired again for himself, and become a candidate instead for the seat which Weller then filled.

Judge Heydenfeldt demurred to all this. The explanation, so satisfactory to Mr. Broderick, as it appeared, was neither satisfactory nor reasonable to himself, nor did he believe it would be to Weller's friends, or to the mass of the Democrats who had opposed Mr. Broderick's election scheme of 1854 and his political conduct since. He finally said to Mr. Broderick, that his position was one of honorable trust and great delicacy; that Senator Weller was a gentleman of punctilious honor, who would not resort to a questionable act to secure even his return to the Senate; that his supporters in the Legislature were honorable men, incapable of bargaining or trafficking for votes in any unworthy manner; that he had himself no control over them, no relations with them which would warrant him in laying before any of them such a proposition; and that he could not, under any circumstances whatever, be a party to a proposition or arrangement of the kind. Among Senator Weller's friends in either House there were none who could be prevailed upon to enter into any plan which did not commend itself to his conscience; and those to whom the Senator had committed his candidacy, as managers in the struggle for election, were indisposed to incur his displeasure, or to violate their own sense of propriety, by engaging in a scheme which would not bear the light of full investigation and withstand the test of deepest scrutiny. This was his complete reply. The conference terminated without further words than the mutual expression of regret that the present prospect for perfect harmony was not brighter, and that the future of the Democratic party appeared so portentous of further trouble.

The interview made it clear to Broderick that he could not count upon Judge Heydenfeldt to aid him in his emergency. He had succeeded beyond the expectations of his adversaries, beyond the anticipations of his own friends. He had, up to the meeting of the Legislature, been sanguine of success, and confident that he had in the two Houses votes enough to secure his election. But now he learned

that actually he required two votes more than he could absolutely count upon. The discovery perplexed, but it did not discourage, him; he had too often overcome graver difficulties, broken his strong way through greater obstacles, snatched victory from the jaws of defeat in desperate extremity; and he was indomitably determined to triumph now, in the critical period of his protracted and tenacious struggle for the seat in the Senate of the United States he had selected for his own. A change of tactics was imperatively essential, for now Judge Heydenfeldt and the Weller managers were aware of his want of two votes, and his inability to obtain the victory unless these vital two votes should be secured. As a matter of course they would adopt every feasable measure to prevent him from getting these votes, and the advantage he had given them by the exposure of his own weakness in that interview with Heydenfeldt would certainly be used to the utmost. There were still left him, to attempt trade with or accommodation, the supporters in each House of the other candidates—Latham, Gwin, Washington, Field, and McCorkle — although there was hardly one among the latter upon whom he could not already count; and Field's supporters were simply for himself, but not subject to his direction or disposition in the event of his own withdrawal from the candidacy.

Broderick then resolved upon a bold stroke. It was to have the Democratic caucus rule in favor of choosing the Senator for the long term—the succession to Weller's seat —first, and then to choose the Senator for the short term. This was in the face of usage, order, propriety, and everything except Broderick's own determination and the written law. Indeed, the law-makers, no more than the framers of the Constitution, never contemplated so extraordinary a proceeding—that the last to be chosen should be the one first chosen; that a Legislature could ever be found which would deliberately proceed to reverse the clear position of senatorial occupancy and election, by providing for the filling of a seat already occupied by an incumbent whose

term would not expire before three months ensuing, while there remained or existed an actual vacancy in another seat which had been without an occupant for two years. The Senator chosen to succeed to Gwin's seat, for the short term, would be entitled to the place in the Congress then in session the moment he could reach Washington; while the Senator chosen to the long term, to succeed Weller, must wait until March 4th, and the assembling of the next Congress, to take his seat. Notwithstanding these apparently insuperable objections and insurmountable obstructions to his purpose, founded on the law of precedent and manifest right, and opposed only and solely by himself in his absorbing ambition to secure the victory he had all these years battled to win, Broderick resolved upon the extraordinary and desperate scheme.

In the Legislature were I. W. Ferguson and Charles Westmoreland, both of whom had been elected as Know-Nothings. They were now Democrats and for Broderick. They were Senators. Frank Tilford was also in the Senate, for Broderick and Latham. As Assemblyman from Placer County was James O'Neill, who had been a member of the Legislature of 1854, and then supported Broderick's election scheme. On his return to his constituency he had received strong tokens of their indignant disapprobation, and was shelved from public life, to which he aspired. Upon solemn protestations of his deep repentance and promises of fidelity in the future, he had managed in 1856 again to secure the nomination for Assemblyman. During the campaign he freely gave and unreservedly submitted to the exaction of pledges to firmly oppose the election of Mr. Broderick to the Senate. Upon those pledges he was elected, and was now again an Assemblyman; moreover, it was whispered among Broderick's confidential friends, that not only would he vote for Broderick in preference to any other candidate, but also was his vote for the other Senator entirely at Broderick's disposal. Hall of El Dorado had been returned to the Legislature upon similar pledges, and was

already known to have absolved himself of them in favor of Broderick, and was at his disposition. Colonel Sam. M. Merritt of Mariposa, Senator, who had been reckoned as a Gwin man because his county was strong for Gwin, was an avowed supporter of Latham, a leader of his friends in the Senate. He was also for Weller for the long term. General Estill had returned to Broderick's support, to the amazement of many, and was a leader of the Latham supporters in the Assembly. John C. Burch of Trinity was for Weller and Latham. Dan Showalter of Mariposa, an ultra Southern man, championed Latham's cause in the House, and with him stood Whipple of Humboldt, who was equally strong in Northern sentiment, and preferred Broderick to Weller. Schuler of Calaveras, representing a devoted Gwin constituency, favored, instead, Broderick and Latham. He was subsequently given an appointment in the Custom-house, and, like O'Neill of Placer, did not return to his county. McGee of Butte and Plumas, and Beatty of Calaveras, both faithful to Gwin, also preferred Broderick to Weller. De la Guerra, always true to his pledges and that which he believed to be his duty, remained steadfast to Broderick, and for the short term preferred McCorkle. Dosh of Shasta, representing an anti-Broderick constituency in the Senate, was for Broderick and Frank Washington, while Hare of the same county in the House favored Broderick and McCorkle. George Rogers of Tuolumne, a Connecticut Democrat of the ancient faith, stood immovable for Gwin and Weller.

Orvis of El Dorado, a veteran Missourian, and worshiper of Tom Benton, had come to the Assembly opposed to Gwin, and not for Weller; but upon being told by the grand-looking ex-Senator, on his first meeting and introduction to that distinguished personage, that he (Orvis) bore a closer resemblance to "Old Bullion" that any man he (Dr. Gwin) had ever seen, and that his head was exactly like Benton's, his feeling toward Gwin was at that instant changed, and he thenceforward took pride in ostentatiously championing,

though with no perceptible effect beyond his own vote, the cause of that marvelous discoverer; supporting his *claque* for the ex-Senator for re-election by the constant repetition of the averment, that "one who was so great and talented in discovering the intellectuality and ability of other statesman at once, was the very man of all others to send back to the 'Sinate.'" And yet Orvis preferred Frank Tilford — who was as bald-headed as himself—to Broderick or Weller for the long term, although Tilford was not really a candidate. His ambition was to be Collector of the Port of San Francisco, the promise of which he had received from Broderick and Latham both, in the event of the election of either of them to the Senate, so far as their recommendation to Mr. Buchanan, the President-elect, could avail in obtaining the place for him. He was from Kentucky, a man of fine natural qualities, well educated, convivial habits, easy nature, learned in the law, an able judge, a charming companion, generally faithful in his attachments, of generous impulses, careless of his means, a good speaker, a skilled debater, and a Democrat of Southern sympathies and Northern associations. In early San Francisco days he was elected time and again to local offices, and was commonly known as "Honest Frank," in the period when the people spoke of "Honest Harry Meiggs" and "Honest John Bigler."

CHAPTER XVII.

BRODERICK'S OFFER FOR VOTES, AND THE DECLINATION —HIS NEXT BOLD STROKE TO WIN—BILLY WILLIAMSON'S ARTIFICE AND DISGUISE—LATHAM'S MEN ENTRAPPED—BRODERICK A SENATOR—HIS GREAT VICTORY.

Broderick's untiring energies were now directed to consummate his bold move to prevail upon the Democratic legislative caucus to agree upon the election of the Senator for the long term first. As he deliberated upon this scheme, he became more determined in his efforts to accomplish it. Confident of his ability to defeat Weller, and to secure the place for himself, he readily foresaw that the consummation of his own election would make him virtually the absolute master of the situation, and that he would then be enabled to dictate who should be his colleague. Besides the intense gratification the Senatorship would afford him in satisfying his life-long ambition, the mastery he could exercise in commanding the election for the short term would yield to him also the power he so loved to wield, and arm him with the strength he very much desired—that of controlling the dispensation of the large and rich Federal patronage which fell to the share of California. There was, besides, the opportunity to humble those who had in past years derided his pretensions to the Senatorship, and either slighted or maligned or contemned himself, and to make them acknowledge his superior position to themselves now; and this was a conspicuous trait in Broderick's character: he could not easily forget to reward his friends and to humiliate and punish his enemies.

The desperate contest of 1854, when he endeavored to force the election of himself as Senator, had wellnigh impoverished Broderick in respect to money. His property was almost exclusively in city blocks and lots, unimproved and yielding small income, if any. He was not engaged in

any business which brought him profit; and his political manœuverings caused a constant drain upon his pocket. He had the most devoted of self-sacrificing friends, who were always ready to share with him their purse; who would never allow him to want whatever they could supply of substantial means; but his requirements were very large, and it was quite impossible, as well as impracticable, to curtail or cease them. To accomplish that which he did in the exciting session of 1854, had cost him $175,000; and although his city property was then very valuable, the mortgages put upon it to obtain this large amount of ready money had almost swamped it. Indeed, he offered, as late as 1856, to surrender the whole of it for the notes and mortgage bonds held against him, and the offer was not accepted, although it was made in good faith to a French capitalist who was considered excellent authority in estimating city property, and who held the larger proportion of the notes and mortgage bonds against Broderick.

From the first organization of the city government, also, as a great help to Broderick in respect both to political capital and money backing, until 1856, the local offices had been filled by men generally friendly to his interests and ardent in his support. The same was true concerning the State patronage during the administration of Governor Bigler. But now the State government was in the hands of the Know-Nothings, and San Francisco was no longer a Democratic city. His friends were out of office, in need of money and assistance themselves, and consequently they were unable or less able either to contribute to his wants or to promote his cause. And, further to embarrass him in this unfortunate strait, reverses of fortune had deprived those upon whom he had most relied for the sinews of war of the means any longer to supply him. During his tour of the State in 1856, he had been so hard run for present requirements as to accept from his friends the small sums of hundreds or a few thousands which they could spare to him; and from his faithful adherent, Jack McDougall of Coloma,

he very thankfully received the loan of $1,200 as an offering to be recompensed at his own convenience; and from Cornelius Stagg, another of his zealous supporters, who had traveled through the State in his interest, to arrange the primaries and County Conventions to his advantage, a much larger amount was similarly gladly received. Unfortunately for these parties, their generous contributions escaped the notice or were left unconsidered by those under whose management the property left by Mr. Broderick was finally distributed.

It was in this severe financial pressure Mr. Broderick began the campaign for the Senatorship before the Legislature of 1857; and it was therefore of first importance to him that he should control the dispensation of the Federal patronage of the State under the administration of President Buchanan, to commence with his own term in the Senate, should he be successful in gaining the succession to the seat to which he aspired, then filled by Senator Weller. With the power to designate or dictate whom should be his colleague in the Senate, would very naturally come also the means to enable him to obtain from that source the command of this customary prerogative of a Senator; for Broderick too well knew the character and ambition of the several aspirants to the short-term seat to be in error as to the willingness of any one of them to surrender to him the patronage of the Senatorship in consideration of the Senatorship itself, if that should be the indispensable condition exacted. These reflections, and the immense advantage the situation would give him, confirmed him in his resolution to have the caucus order the long-term Senator first. He had failed in his effort to arrange with Judge Heydenfeldt for the votes of the two he required in caucus to make his own nomination positively certain; but he had by no means therefore doubted or despaired of his ability to secure the two, or even more, to make assurance doubly sure, from another source.

Among the most useful of Broderick's workers was Billy

Williamson, commonly known by the not euphonious nickname of "Snaggle-tooth Billy." He was of Northern birth, but had lived in the South many years, and from there had emigrated to California. He was addicted to every species of "sporting," and was an acknowledged authority on turf matters. Although faithful to his pledged word to one whose cause he honestly espoused, there was no limit to his artifice, to the extent of his ability and opportunity, in his machinations on behalf of the master he served, or against any to whom he stood opposed; nor did his scruples or his conscience ever come in the way of whatever was possible in any emergency in which his feelings or his engagements were involved. It had become necessary for Broderick to ascertain exactly what course the friends of Weller intended to pursue, now that his offer to Heydenfeldt must have been communicated to them in general terms—not as to the conversation between himself and Judge Heydenfeldt, but as to the requirement by himself of the two essential votes. But the Weller men were so thoroughly organized, and so circumspect in speech and action, that it had been found impossible to obtain this important information. The friends of Gwin, of Latham, of Washington and Field and McCorkle, all separately caucussed and canvassed the situation, and word of all these came to Broderick with promptitude and directness. In fact, McCorkle's caucus was as his own, and Latham's friends were in many cases equally strong for him. But Weller's force was under better discipline in respect to caucusing and consultation, and there were neither weaklings nor blabbers among them.

On Monday, January 5th, the Legislature convened. The Democratic caucus had already been arranged for Thursday evening, the 8th. Broderick's offer to Judge Heydenfeldt had been rejected. The Weller men were to meet together Wednesday night and discuss the situation. The place of meeting was no secret, and Billy Williamson readily learned it. It was the custom of the period to mellow the harshness of discussion with wine. The Weller caucus was not a

lemonade-and-crackers affair. The calls for refreshments were answered by a very attentive colored servant, in whose presence no restraint of expression was thought necessary. It was a very grave oversight, as the next evening's proceedings in caucus, and subsequent events, proved. The colored waiter at that conference of Weller men was "Snaggle-tooth Billy," and that night he imparted to Broderick that which Mr. Broderick wished most to learn. He was at no further loss how to proceed or what plan to adopt. He had learned also the men he could neither influence nor move, and who they were that preferred Gwin to Weller, or some other to Gwin. That very Wednesday night, at a later hour, there was arranged between the supporters of Mr. Broderick and Mr. Latham a plan by which the long-term Senatorship should be first filled by election; and, as the consequence of this concession by the friends of Latham, the election of their favorite to the short-term vacancy was regarded as a foregone conclusion.

Thursday evening, agreeably to call, the Democratic legislative caucus assembled. Assemblyman Whipple, who had been for Gwin and against Broderick in the Legislature of 1854, but was now for Broderick and Latham, offered a resolution to the effect that the members present pledge themselves to abide by the action of the caucus. It was adopted. Assemblyman Graves (for Broderick and Latham) offered this: "That in making the nominations for United States Senators the following order of business shall be observed: 1st. The nomination of a Senator to fill the long term, to succeed Hon. John B. Weller; 2nd. The nomination of a Senator to fill the short term, to succeed the Hon. Wm. M. Gwin."

Senator J. W. Mandeville of Tuolumne (Gwin and Weller) offered as a substitute a resolution to nominate the short-term Senator first, and then the Senator for the long term. Senator Frank Tilford (Broderick and Latham) moved the previous question. It was sustained by a vote of 47 to 32; the substitute of Mandeville was lost, 35 ayes to

42 noes; and the resolution of Graves was then carried by this vote:

For—Senators Carpenter, Chase, Crandall, De la Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Shaw, Tilford, Westmoreland; Assemblymen Aull, Barrett, Burns, Carpenter, Cassin, Covarrubias, Davidson, Estill, Fuller, Graves, Hall, Hare, Holden, Hume, Hunt, Irwin, Jenkins, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Mitchell, Morrison, O'Neill, Pierce, Showalter, Shuler, Sweezy, Varney, Whipple, Wood—42.

Against—Senators Johnson of El Dorado, McGee, Melony, Mandeville, Merritt, Norman, Talliaferro, Walkup, Wilson; Assemblymen Anderson, Beatty, Brent, Burch, Caperton, Coil, Edwards, Gilman, Hamm, Harrison, Howard, Hunter, Inman, Kendrick, Larue, Miles of Sierra, Moore, Orvis, Patrick, Rogers, Seawell, Safford, Steele, Underwood, Warrington, Wyman—35.

Mandeville moved the caucus adjourn to next evening; lost, 29 ayes to 47 noes. Mr. Whipple then made the motion to go into the nomination for the long term, and called for the previous question, which was sustained, and the motion carried.

Senator G. J. Carpenter nominated David C. Broderick. Assemblyman Kendrick nominated John B. Weller. The vote was:

For Broderick—Senators Carpenter, Chase, Crandall, De la Guerra, Dosh, Ferguson of Sacramento, McGee, Shaw, Tilford, Westmoreland; Assemblymen Barrett, Beatty, Burns, Carpenter, Cassin, Covarrubias, Davidson, Estill, Fuller, Graves, Hall, Hare, Hume, Hunt, Jenkins, Larue, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Mitchell, Morrison, O'Neill, Pierce, Ricks, Shuler, Sweezy, Varney, Whipple, Wood—42.

For Weller—Senators Johnson of El Dorado, Melony, Mandeville, Merritt, Norman, Talliaferro, Walkup, Wilson; Assemblymen Anderson, Aull, Brent, Burch, Caperton, Coil, Edwards, Gilman, Hamm, Harrison, Holden, Howard,

Hunter, Inman, Kendrick, Miles of Sierra, Moore, Patrick, Rogers, Showalter, Safford, Steele, Turner, Underwood, Warrington, Wyman—34.

For Frank Tilford—Irwin, Orvis, Seawell—3.

The nomination of David C. Broderick for the long-term Senator was then made unanimous.

The caucus proceeded to nominate the Senator for the short term. The names were presented of Wm. M. Gwin, Milton S. Latham, Joseph W. McCorkle, B. F. Washington, Stephen J. Field, and A. P. Crittenden.

The first ballot resulted:

For Gwin—Senators Chase, Crandall, McGee, Melony, Mandeville, Norman, Walkup, Westmoreland, Wilson; Assemblymen Anderson, Beatty, Brent, Caperton, Coil, Edwards, Hamm, Harrison, Hume, Hunter, Orvis, Patrick, Ricks, Rogers, Seawell, Turner, Wyman—26.

For Latham—Senators Merritt and Tilford; Assemblymen Aull, Burch, Carpenter, Cassin, Davidson, Estill, Gilman, Graves, Holden, Howard, Inman, Larue, Mitchell, O'Neill, Showalter, Underwood, Warrington, Whipple, Wood—21.

For McCorkle—Senators Carpenter and De la Guerra; Assemblymen Covarrubias, Hall, Hare, Hunt, Jenkins, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Morrison, Pierce, Steele—15.

For Washington—Senators Dosh, Ferguson of Sacramento, and Johnson of El Dorado. Assemblymen Miles of Sierra, Moore, Shuler, Varney—7.

For Field—Senators Johnson of Sacramento and Shaw. Assemblymen Barrett, Burns, Fuller, Irwin, Sweezy—7.

For Crittenden—Senator Talliaferro and Assemblyman Kendrick—2.

For General James W. Denver—Assemblyman Safford—1.

Forty votes were necessary to a choice. A second ballot was then taken with this result:

Gwin, 25; Latham, 24; McCorkle, 15; Washington, 7; Field, 7; Denver, 1; Crittenden's name had been withdrawn,

Talliaferro having changed from him to McCorkle; Kendrick to Field; Irwin from Field to Latham; Harrison from Gwin to Latham; and Hunt (Mormon) from McCorkle to Latham.

On motion of Hume, the caucus then adjourned to the next evening.

The joint convention of the Legislature the next day, Friday, January 9th, chose David C. Broderick United States Senator for the term to begin March 4th, 1857, and expire March 3d, 1863, as the successor of John B. Weller. His commission as Senator was made out by the Secretary of State, David F. Douglass; signed by Governor J. Neely Johnson; and, by special request that he be permitted the honor, was delivered in person to Mr. Broderick, at his headquarters at the Magnolia Hotel, by his devoted friend Wm. M. Lent, on Saturday the 10th.

Broderick was now Senator, the position to which he had so many years aspired, so long and so assiduously labored. He had achieved the victory against odds and in the face of difficulties over which no other man in American history had ever contended and won. He had gained the exalted station by sheer force of his own indomitable will; unfailingly supported by a tireless energy and a pertinacity of purpose which no mortal power could withstand or intimidate, turn aside or overcome. When he first declared his intention to his admirers and followers in New York City, they gave him full credit for his high resolve; but they had small faith, or none at all, in his ability to accomplish his vow. His announcement of his pretensions in California, in 1851, to place himself in candidacy was at the time ridiculed; but as the struggle before the Legislature progressed, more consideration was awarded him as a candidate. His defeat by Governor Weller was viewed by his victorious opponents as final and effective. His friends knew him better than to so misjudge him. To himself the defeat was simply as notification that he must longer though impatiently bide his time; as another lesson in political progres-

sion that he had been taught; as a fresh spur to impel him more resolutely toward the crowning goal. His desperate scheme to force the election in 1854 was the significant outcome and bold testimony of the desperation which fired him to the startling act unparalleled in the political annals of the country. It demonstrated that in the pursuit of his lofty ambition he disregarded precedent, overrode usage, scorned trodden ways, and preferred to strike out for himself by new methods; to blaze his own course onward where no other had ever attempted to advance. Upheld by the might of his own prodigious self-assurance, he cared nothing for the opinions or antagonisms of the leaders whom he either battled, swayed, or mastered; nothing for the popular sentiment which did not favor or applaud him. He felt within himself the power to overcome or neutralize all that the leaders could do; to extort from the multitude the plaudits and admiration which daring success, no matter what else attends it, almost invariably wins from such sources; and he always securely reckoned upon enlisting to his cause the hestitating and the desperate by the very dash and audacity which shocked the conservative element, and raised up against these aggressive qualities the cry and the protest of custom and authority.

To any other man than Broderick, his defeat in 1854 before the Legislature, and his more overwhelming defeat before the people in the fall election, would have been crushing, fatal, final. It was as Napoleon's withdrawal from Paris before the power of the allies, as Elba, and then as his Waterloo. But Broderick would not be Waterlooed. It was at that most critical juncture, when the allies opposed to him had him prostrate and powerless for harm, that, by his boldness and heroism of audacious management, he bounded full to his feet again, and instantly reversed the order of affairs, by seizing to himself the mastery of the party he had in vain endeavored to defeat, and placing himself in virtual command of the organization which had been the year before established on firmer basis for his complete

annihilation as either rival or foe. With similar irrepressible power and unconquerable tact, he had fought Know-Nothingism, the Vigilance Committee, and the opposing element of his own party through 1855 and 1856. In the State Convention of the latter year he had been overborne by large odds; and Scott and McKibben, two of his most determined enemies, had obtained the nominations for Congressmen and won the election, notwithstanding his efforts or his desire to the contrary. To be sure, he had in that election sacrificed everything else, nearly, for the Legislature; and even in that body, at the opening, he had not the number he required for his own election as Senator, although he was more than sanguine; he was convinced that he would have no difficulty in gaining over to his support the two he needed.

The want of the two votes which he at first asked from Weller's supporters, through Judge Heydenfeldt, was then turned to such extraordinary account that the very want of them proved in the end to be the lever by which he should secure absolute command of the senatorial situation; not only to elect himself, but also to dictate the terms to the candidate he selected for his colleague, and then, apparently, to order the election to that effect. It was, as was his election scheme of 1854, entirely in violation and utter disregard of all precedent and reason, with no other support to it than his own determination and the right of might. It was an audacious inversion of the natural order of things: putting that first which belonged last, taking from the bottom that which had proper place there and placing it on top. Only a bold man in his position at that time could have harbored the revolutionary idea, none but a desperate man, conscious of his own enormous powers to snatch victory where defeat threatened, would have urged or dared the amazing experiment. But Broderick never hesitated as to the course to pursue from the moment the idea flashed upon his mind; he allowed no other thought of it to possess him except the means and method by which to consummate it; and to that sole purpose he directed all the vigor of his impetuous

nature. He won the fight; and he exulted in his hour of glory. Well might he exult; for he had achieved a victory which will link its marvellous history with his name and fame; a victory which stands and is likely to stand in semblance with himself in person and blood; like no other, and separated from every other, alone and conspicuous, beginning and ending with himself in the sight of man. It was his hour of glory, the presage of his doom.

CHAPTER XVIII.

STRUGGLE FOR THE SHORT TERM—EXTRAORDINARY AND PERPLEXING COMPLICATIONS—BRODERICK MASTER OF THE SITUATION—JOHN BIGLER'S PLANS—GWIN'S DEJECTION—HE RESOLVES TO FIGHT IT OUT—INEFFECTUAL BALLOTING.

The day following the nomination of Broderick as United States Senator, to succeed Senator Weller the ensuing March, was one of wild speculation and unequaled excitement at the State capital, and generally throughout the State. The joy of the Broderick men was excessive. They were jubilant, hilarious, demonstrative: towards some, exuberant in their patronizing amiability; towards others, exasperating by their offensive exultation. The popular curiosity was excited to ascertain clews by which to guess the coming lucky man upon whom the caucus would agree for his colleague; and these indications of the manner in which his most intimate friends bore themselves towards those known to be closest in the friendship of the two leading candidates—Gwin and Latham—in order to derive from even such uncertain signs what might be most probable to result from the struggle for the short-term Senatorship, were closely watched and widely discussed. Only upon two events was the public mind agreed: first, that Broderick was now a Senator; second, that he would name his colleague. In this only was the public correct. Broderick was the imperial master of the situation, as he had designed and resolved he should be, and no man felt better assured of it than himself. He now possessed the power of a giant, and he resolved to use it as a giant. As he remarked himself to a steadfast friend, alluding to the candidates for the other seat who had in past days most vigorously opposed him and belittled him: "It is my turn now; and not one of them shall get his head to the front until I have pulled out his claws and put my brand on him." He kept his word in this re-

spect. And he kept the rival aspirants in the throes of uncertainty for days.

The condition of the struggle was difficult to determine. Dr. Gwin and Mr. Latham were the leading candidates among the five in nomination before the caucus. The candidacy of Mr. A. P. Crittenden, who had been voted for on the first ballot only and then withdrawn, was known to be in accordance with Mr. Broderick's desire. Mr. Crittenden was an eminent lawyer, a Kentuckian of distinguished family, and in the State Convention of 1853 he had been defeated for the nomination of Supreme Court Judge by Alex. Wells, a New York Tombs and Police Court lawyer, through the influence of Mr. Broderick in behalf of Wells, who was one of his devotees. But Mr. Crittenden, similarly with Edmund Randolph, of the proud Virginia Randolph stock of Roanoke, had become warmly attached to Broderick, and, like Randolph further, he opposed Dr. Gwin. This singular friendship brought to Broderick's cause other influential Kentuckians and Virginians, and, in corresponding ratio, weakened the cause of Dr. Gwin, against whom it was mainly directed. Crittenden, Randolph, and Broderick were the ardent friends of William Walker, then operating as filibuster in Nicaragua; and as the sympathizers of that movement in California were somewhat numerous, the accession to Broderick's ranks of many of them gave him strength from a quarter little before reckoned upon. But it was nevertheless apparent that Broderick preferred McCorkle as his colleague above all others; and, as he was more popular than Crittenden, it was thought wise not to distract or weaken his force by Crittenden's candidacy, after he had developed so little likelihood of drawing votes from Gwin or from Latham. His efforts could be more effectively addressed to the same conclusion by withdrawing from candidacy and using his powers of persuasion as a private citizen.

Judge McCorkle had engaged in the contest as the friend of Mr. Broderick, but also with a view to his own election to

the other seat in the Senate. He had lost none of his old-time hatred of Latham; and his enmity towards Gwin had increased to such intensity that under certain circumstances his choice between the two, if choose he must, would be for Latham. John Conness was no longer in the Legislature, but he was too important a factor in the contest to be omitted from the reckoning of any involved in it. He was as passionately devoted to Broderick as his nature admitted that emotion to any; and, while he had no fancy for Latham, he intensely hated Gwin. Between himself and McCorkle friendly sentiment subsisted; and, with Broderick, he preferred him to any in the field. Conness bore spleen against Washington barely less in degree than his hatred of Gwin; but he had no objection to Judge Field, who had, however, no visible chance of election as a Senator, and who was in the list mainly to prepare his way to the Supreme Court Bench, a position more congenial to his nature and training, and much coveted by him. Likewise was it a place he could fairly hope to obtain; one that he could well honor.

John Conness and General Estill were as different in sentiment, character, and action, as any two could be; still their mutual likes and dislikes had now brought them into amicable relations, laboring for a common purpose. They liked Broderick, they hated Gwin, they preferred McCorkle to Latham; but as McCorkle could not defeat Gwin, and it was possible that Latham could, they stood agreed with ex-Governor John McDougal, and other supporters of Latham, to advocate his election, and, if feasible, to bring McCorkle to the same course of action, whenever he should become convinced that his own candidacy must prove futile. Anything or anybody to defeat Dr. Gwin was now the battle-cry of this element.

Latham had his headquarters in the Fashion, a popular house in the city, on J Street, first above Second Street, on which, between J and K Streets, was the Orleans Hotel, the Gwin headquarters, while Broderick maintained his at the Magnolia, on J Street, below Second. Thus the rendezvous

of the three chief personages were near adjacent and readily observed by any who were disposed to watch the movements of the friends and workers of the three. The Weller headquarters in the Orleans had been abandoned the day after his defeat by Broderick; and McCorkle, Washington, and Field held audience with their supporters wherever occasion served. It was not considered probable that either of them could gain the great prize, although the two others might, the same as Field had done, make their candidacy a means to future preferment. Washington's supporters in caucus were his faithful friends, and not until he expressed the word would they be likely to abandon him.

At Sacramento, aiding Dr. Gwin in his struggle, were a number of distinguished citizens, prominent among whom, in office and in private station, were General Volney E. Howard, Colonel T. J. Henley, Colonel J. D. Fry, David F. Douglass, General Lewis Saunders, Jr., and John C. Maynard. His devoted friends in the Legislature numbered Senators Norman, Mandeville, McGee, Walkup, and Wilson; Assemblymen Anderson, Beatty, Brent, Caperton, Patrick, Rogers, Hunter, Hume, Hamm, Turner, and Wyman. Others were equally as ardent in his cause. Estill, Merritt, Showalter, Tilford, Burch, and Graves were Latham's firmest supporters. Dosh and W. I. Ferguson were the ablest of Washington's friends; and Vincent E. Geiger, his former partner, was his best outside worker. Backing Latham on the street, and in secret councils, was David Mahoney, the doughty champion of Broderick; and also to his aid had come Congressman-elect Charley Scott, who had before that been one of Gwin's admirers. Major P. L. Solomon, who sought the office of United States Marshal, was Scott's most confidential friend; and although he had hitherto been among Gwin's steadfast champions, it was whispered that he would not be averse to Latham's election, inasmuch as Scott had secured from that aspirant a promise that Solomon should have his support for the Marshalship, if elected Senator, to the extent of his influence with President Bu-

chanan. Colonel McKibben was another of Gwin's former supporters, who now manifested a disposition to hold aloof from his cause, and he more favored that of Washington. In fact, there was all around, but especially against Gwin, and in favor of Latham and Washington, a remarkable abandonment of past devotion and fresh alliances; and some of the parties to these changes had for years held Federal office or were then in the enjoyment of place or patronage through the favor of Dr. Gwin. It seemed as if the very men he had most favored had sought the opportunity to overthrow him, and to elevate in his stead either Latham or some other; and he was powerless against this unexpected line of opposition.

Dr. Gwin's reflections, incident to this surprising and mortifying condition of his candidacy, in having, as it were, the very batteries which he had planted and manned turned against him at the time he had most reckoned upon their fidelity and force, were at once sad and ireful. Out of the hundreds to whom he had, directly or indirectly, dispensed the places and patronage which they were now using to defeat himself, and give victory to his most formidable rival—Latham—barely a dozen, or even less, were faithful to him in his hour of greatest need for the manifestation of that gratitude on which he had all the time so confidently counted; and these few seemed unable to offset the greatly larger opposing force thus equipped for the fight from Gwin's own armory. The morning after the nomination of Broderick in caucus, with the further showing of the sentiment of that body to his disadvantage, wherein the changes appeared to be mainly in favor of Collector Latham, with the probability that there would eventuate a stampede in his favor to secure the election at the meeting of the caucus that night, the outlook was so disheartening to his few devoted friends, and so unpromising to his own mind, that at one time he was on the point of abandoning the contest. General Howard frankly told him that he was constrained, after thorough deliberation upon the extraordinary situa-

tion, to the conclusion that his election was not at all probable, and that an honorable retirement from the field, rather than to await defeat, and the triumph of Latham, was the better and more dignified course to adopt. It was agreed that the action of the caucus in reversing the order of election, by nominating for the long term first, and following that up by the selection of Mr. Broderick, made that gentleman the virtual master of the election of his colleague; and it was argued that, inasmuch as Broderick had absolved himself, without explanation or just cause, from his agreement with the friend of Dr. Gwin, to assist his election, or at least to interpose to it no obstacle, and had instead signified to his confidential friends his desire that McCorkle should be chosen for the short time, the fact might be accepted as conclusive that Broderick really intended to defeat Gwin, and, failing to secure the election of McCorkle, that he would next lend his all-powerful assistance to Latham.

To sustain this reasonable theory, were the significant facts, that, among the foremost and most zealous supporters of Latham were the dearest and closest of Mr. Broderick's friends and confidants — John Conness, David Mahoney, General Estill, and Frank Tilford; that to these were added the members of the Legislature, over whom Mr. Broderick possessed commanding influence; and that the bargain which had already been consummated, of which the nomination of Broderick for the long term was the fruit, was the certain indication that Broderick had at last consented to the election of Latham for the short term. In connection with these facts, also, there was to be considered the remarkable circumstance, that neither of the Congressmen-elect, McKibben and Scott, who had formerly been Gwin's devoted friends, were now advocating his election; that while McKibben was not openly against him, his sympathies were clearly in favor of Washington, and that Scott was actively enlisted upon the side of Latham; and as these two would be measurably powerful in prevailing with Mr. Buchanan and his Cabinet in the distribution of the Federal

patronage in California, the effect of the lukewarmness of the one and of the antagonism of the other to Dr. Gwin would prove disastrous to his candidacy for the Senate.

Colonel McKibben was, like Mr. Buchanan, a Pennsylvanian. It was known that his father was one of Buchanan's most devoted friends, and that he enjoyed the confidence of the President-elect. Accordingly, McKibben himself would be able to exert uncommon influence for a Congressman with Mr. Buchanan in the dispensation of Federal patronage; and to those who were engaged in the senatorial struggle, with a view to recompense by Federal appointment, this was a material consideration in shaping their conduct and their efforts for this or that candidate. Much was expected, likewise, of Scott, in the line of influence with the incoming administration; and this so much redounded to the advantage of Latham, in whose support he was so very earnest and ardent. And still another circumstance gave force and argument to these strongly reasoned conclusions. Ex-Governor John Bigler was the brother of Senator Wm. Bigler of Pennsylvania, who had also been Governor of that State. Between Mr. Buchanan and Senator Bigler the warmest personal friendship and most intimate political relations subsisted. John Bigler had vehemently denounced Senator Douglas, and opposed his Kansas-Nebraska Bill. His antagonism to Douglas had more strongly recommended him to Mr. Buchanan, notwithstanding his position upon the Kansas-Nebraska question was opposed to that maintained by the President-elect; and there was, moreover, the friendship of his brother, the Senator, to fortify his good standing with Mr. Buchanan. John Bigler had long been ambitious himself for senatorial preferment, but his relations with Broderick had obliged him to forego these, and to promote, instead, the pretensions of that imperious party chieftain. He had hoped, in fact, to obtain Broderick's aid in his own election as Broderick's colleague, but he soon discovered that the hope was likely to prove futile. But he had resolved upon presenting his

claims for the Collectorship of San Francisco, to succeed Latham, and in this he had confidently reckoned upon Broderick's assent and aid. He was not long in ascertaining that Broderick had made other disposition of the place, so far as he should be enabled to control the appointment. He had learned from different sources that Mr. Broderick had promised the Collectorship to another: some said to Frank Tilford, then the leader of the Broderick force in the State Senate; while others were as positive in asserting that the office was to be given to ex-Senator Wm. M. Lent; and others still insisted that Broderick had assured it either to John Middleton or to A. A. Selover. It was fixed, at all events, in ex-Governor Bigler's mind, that Mr. Broderick had surely promised the office to another, and that he must depend upon his own exertions, and other influence than that of Mr. Broderick, to obtain the place. Of the written pledge, of which he had received intimation, from Mr. Latham, in the event of his election to the Senate, to Frank Tilford, that the latter should have Latham's support for the Collectorship, Bigler cared little; he was confident that his own relations with Mr. Buchanan, together with his brother's great influence, would secure him the position, unless Broderick should be able to keep him from it. But in connection with the senatorship, while he felt his own aspirations to be hopeless, and found himself in a position that would not admit of any hostility to Broderick, he had no reserve in continuing his accustomed opposition to Dr. Gwin, which he persisted in with all the power he could command; and although nowise predisposed to Latham, he had been measurably persuaded into partial support of that candidate by John Nye, brother of James M. Nye, who was one of his own warmest friends and steadfast supporters in party matters.

It was after a thoughtful review of all these various complications, facts, and circumstances, that General Howard and other earnest friends and wise counselors of Dr. Gwin reached the conclusion that his candidacy was likely, if not

certain, to end in defeat. And as defeat under the circumstances would be more mortifying than an abandonment of the contest, it was the opinion of these gentlemen that to retire from the struggle at once would be the better course. Colonel Henley was consulted. He was noted for his sagacity and discretion as a skilled master of political tactics, and his uprightness and candor were also distinguishing traits. Dr. Gwin had no truer friend, no supporter more faithful, no counselor more devoted or possessed of greater wisdom and prudence. He did not wholly accord with the line of conduct suggested, but he declined to offer advice. It was, he thought, a matter which Dr. Gwin only and solely could determine for himself. He would abide that determination, be it what it might. Were Gwin to resolve to continue in candidacy, he would persist assiduously in his efforts to promote his election; but if he resolved to retire from the candidacy, he too would leave the scene of the struggle and have nothing more to do with it. At this juncture, David F. Douglass called upon Dr. Gwin. He had never been a Democrat. Originally a Whig, he had upon the dissolution of that party joined the Know-Nothing organization, and was now Secretary of State, through the triumph of that organization. But he had always in California been the warm friend and steadfast supporter of Dr. Gwin, and he favored his election above that of any other in the State. Certain facts had come to his knowledge which inspired him with confidence that Gwin could yet be elected, and he felt convinced that Latham would eventually fail in getting the caucus nomination. He counseled, urged, implored Dr. Gwin not to abandon the fight; and protested that it would be a humiliating admission of weakness and want of moral courage for him to adopt any other course than to prosecute the contest to the last extremity. Another of Dr. Gwin's friends, who sought no favor at his hands, neither personal nor political, pressed with equal earnestness the views and arguments set forth by Douglass and the two remained after the others had left Dr. Gwin's room to

further prevail upon him. They had the satisfaction of learning from his own lips, about noon of that day, that he had decided to remain in Sacramento and continue in the struggle until the end. Yet he had announced his purpose that morning to take his departure that afternoon by the 2 o'clock boat for San Francisco, in token of his retirement from the field.

Colonel A. J. Butler was Broderick's most confidential manager in the outdoor work of the contest. He was personally more favorable to Dr. Gwin than to either Latham or McCorkle, and he was most inimical to Washington. Still, as Broderick's manager and generally accredited mouthpiece upon the street, he felt disinclined to adopt any other course than that prescribed or directed by his chief. He was requested that afternoon to go into the Orleans Hotel public room and offer a wager of $2,000 that Dr. Gwin would be the short-term Senator. The effect of such a banter from Butler would be to impress the friends of the other candidates who did not have the ear of Mr. Broderick, and the class who were all the time seeking to ally themselves upon the winning side, with the belief that Broderick himself actually preferred Gwin. It would also impose upon Broderick the necessity of declaring his real intentions in the contest, now that he occupied the place of power. Butler assented to the proposition, but stipulated that first he must consult "the old man" (Mr. Broderick) upon it. In a few minutes he returned with the answer that he could not accept the commission. But his assent to the proposition was still a matter of encouragement to Gwin's friends, and they managed to use it to good advantage.

The caucus reassembled Friday evening, January 9th. Four ineffectual ballots were taken, making six in all for the short term, with these results: Third ballot—the first that evening—Gwin, 26; Latham, 23; McCorkle, 16; Washington, 8; Field, 5; Denver, 1. Fourth ballot—Gwin, 28; Latham, 24; McCorkle, 14; Washington, 8; Field, 5. Fifth ballot—Gwin, 28; Latham, 23; McCorkle, 15; Washington,

8; Field, 5. Sixth ballot—Gwin, 28; Latham, 23; McCorkle, 14; Washington, 8; Field, 5. After the fifth ballot, General Estill moved an adjournment, which was lost—36 ayes to 42 noes. At the close of the sixth ballot a similar motion by W. F. Ferguson prevailed—ayes, 41; noes, 37; and the caucus thereupon adjourned until the following evening. Larue had changed from Latham to Gwin, Safford from Denver to Gwin. Shaw had changed around from Field to McCorkle, from McCorkle to Latham, and from Latham to Washington; Hunt from McCorkle to Latham; Kendrick from Field to Gwin. These changes were not material, and some of them were made as decoys; but the drift was unmistakably in favor of Dr. Gwin.

CHAPTER XIX.

AN EVENTFUL DAY — LATHAM'S TROUBLES — TILFORD'S THREATENED DEFECTION, AND THE VIGILANCE COMMITTEE COMPLICATION—BALLOTING FOR THE SHORT TERM—BRODERICK'S MASTERY AND RETRIBUTION.

Saturday, January 10th was a day of intense excitement at the State capital, among the whole troop of politicians, sentatorial aspirants, their friends and managers, the spoil-hunters, hangers-on, and the people generally. There was something in the air in the early morning which foreboded a day of uncommon activity in the senatorial wrangle, a day big with events to determine the result. The multitudes that were gathered about the different places of rendezvous —at the Orleans, the Fashion, and the Magnolia—appeared conscious of the trouble that was predicted in the Latham camp before nightfall, by the knowing ones who were in position to learn the secrets of the leaders and managers; but just what the nature of the trouble was, none exactly knew, except the few whose business it was to know. The crowds were not long kept in suspense. The trouble was, in fact, twofold in kind, and harmfully strong in each branch, to Latham's cause. It came from his own conduct in each instance, but from different directions. He had given to Senator Frank Tilford a written pledge to recommend his name to President-elect Buchanan, in the event of his own election to the Senate, for the office of Collector of San Francisco; and this precious paper Tilford discovered to be missing. He charged that Latham had himself abstracted it, or employed one of his workers to do so, from the place where it had been deposited for safe keeping, in order to destroy the evidence of the pledge itself, and to evade its fulfillment, without fear of any other proof of it against himself except the asseveration of Tilford in his own behalf. At all events, the paper was not to be found, and the blame for its mysterious disappearance was cast upon Latham, who was also denounced in violent language

by Judge Tilford, as one in whose word no dependence could be reposed. In his anger at the loss of the pledge, Tilford exposed his turbulent condition of mind to Broderick, and to the few who, while the friends of Broderick, were managing or assisting in the cause of Latham, to defeat Gwin; and the vehemence of his passion not only created consternation among Latham's supporters, but also it had the effect to disrupt an arrangement already near to consummation, which would give the election to Latham by nomination in caucus. The trouble had been too open, and had gone too far either to suppress it from the knowledge of Gwin's managers, or to compose it and heal the disastrous breach in Latham's camp which it had caused. It bore its bitter fruit to that candidate, notwithstanding the prompt measures that were adopted to overcome and avert the catastrophe. It broke down a support that could not again be brought to Latham's cause, even with the strongest efforts of Broderick himself to that purpose just before the final decision of the absorbing and vital issue by the caucus.

The other branch of the trouble was more of a public matter, and was given immediate circulation throughout the city. It appertained to Mr. Latham's relations to the San Francisco Vigilance Committee, as Collector of the Port, and raised against him a violent popular outcry.

To add fuel to this fire, Judge Ned McGowan, who had been hunted for his life by the Vigilantes during a period of four or five months, and had escaped from the peril of ignominious death by almost miraculous fortune and the fidelity of his sympathizing friends, had lately arrived in Sacramento, and was provided with comfortable quarters in a house to which access was allowed only to those who were known to be in sympathy with him.

An indictment for the murder of James King of William, as accessory, was still hanging over him, and it was considered unsafe for him to withstand the ordeal of trial, as the public sentiment in San Francisco was even yet largely controlled by the Vigilance Committee influence.

But in his secure refuge, McGowan was visited, cheered, and congratulated by hundreds of his friends and sympathizers, to whom he unreservedly denounced the Committee itself, and all who had countenanced or favored it.

Throughout the State the organization had been generally condemned by Democrats, and as its power had converted San Francisco from a Democratic into an opposition city, turned Democrats out of office, and filled their places by men of Vigilante proclivities, the feeling among these men and their party was invincibly strong against that organization. It had also, in large measure, attacked and proscribed Mr. Broderick and his friends, and on this account it was further imprecated.

It had happened that, during the active operations of the Vigilance Committee in San Francisco, while its victims were banished by forced departure upon the steamships of the Pacific Mail Steamship Company, without the intervention of the State or Federal authorities, there was all the time in the harbor constantly ready for immediate service, a revenue cutter of the United States, the William L. Marcy, which was under the control of the Collector. The Federal law provided that the Collector of Customs had jurisdiction over the waters of the United States within a marine league from the shore, and the cutter was entirely at his disposal to execute his commands in conformity with the law. It was true, that, according to the manner of banishment practiced by the Committee, the victim was never allowed opportunity to make formal or legal protest, or to take other means to regain his liberty or prevent his forced exile; but it was also true, that this inability of the Committee's prisoners was known to the entire community, and therefore the Collector could not be ignorant of it. It was accordingly, or so it was argued, his duty to interpose his authority against such palpable breaches of the law in vindication of the natural and constitutional rights of the sufferers. But the case was still stronger against Mr. Latham. A statement had been prepared by Thomas L. Smiley, then a prominent

auctioneer of San Francisco, who had been a member of the executive committee of the Vigilance Organization, to the effect that William T. Coleman, the President of the Vigilance Committee, and himself had, during the early period of the Committee, called upon Collector Latham and obtained from him a promise that the Committee should not be hindered or interfered with in the deportation of its prisoners and objectionable persons by the revenue cutter of the Government in his charge in the harbor of San Francisco. This statement, made in writing by Mr. Smiley, lacked the signature of William T. Coleman, Mr. Smiley stated, simply because that gentleman was then absent on a visit to New York; had he been present he would have signed it. And this caused Mr. Latham to appear in the light of a Government officer who had, while sworn to obey and vindicate the law of the United States, entered into collusion with the formidable organization which had for months usurped the authority of the law, and defied and overrode the officers of the law. Furthermore, it was established that his brother, James H. Latham, while holding office in the Custom-house, had enlisted and served as an officer in the military companies of the Vigilance Committee, and that Collector Latham had retained him in office after the remonstrance of prominent law-and-order citizens against the conduct of his brother had been made to him.

The statement of Mr. Smiley had been placed in the hands of John C. Maynard, a connection by marriage with Dr. Gwin, and an ardent worker in his cause. He lost no time in making effective use of it in the ranks of the Latham men, especially with such of his supporters in the caucus as were most opposed to the Committee, some of whom were the earnest personal friends of Judge David S. Terry, who had himself suffered at the hands of the Vigilance Committee. Mr. Maynard also made strong use of the fact that Collector Latham had allowed his younger brother to serve in the Committee, as an active member, after the remonstrance, and to retain him in place in the Custom-house. The

exhibition of Smiley's statement upon the street that Saturday morning, the additional statement effecting Latham and his brother, and the surprise and indignation the whole matter created among the great portion of the large number interested in the senatorial contest, together with the damaging effect it was manifestly producing in the ranks of Latham's supporters, caused such turmoil of angry excitement that it came near involving some of the more conspicuous on either side in fights and duels. Dan Showalter, one of the most determined of Latham's friends, became so enraged that he grew desperate, and sought by threats and personal malediction of the parties to the blasting statements to overcome their effect and to stem the suddenly turned current of sentiment in respect to his favorite candidate. His violence and imprudence had the contrary effect. The feeling among the main portion of the Democrats in the Legislature, as in Sacramento and everywhere in the State, against the Vigilance Committee, was so strong that it was not in the power of man to successfully resist it or overcome it. And in conjunction with the other trouble—that of the abstraction of the pledge in writing from himself to Tilford, which bore against Latham in another quarter equally vital to his election—the Vigilance Committee affair promised to become a fatal obstacle to his success. It had the effect, however, on his side, of spurring his friends to their utmost endeavors to sustain his darkened cause. Extraordinary efforts were that day made by his most devoted champions to prevent desertions from the ranks in caucus, and to gain others to his side. Nor were the friends of Gwin less active and sedulous in his behalf.

In the interest of Latham, General Estill, John Conness, and David Mahoney worked with uncommon energy. Judge McCorkle had been prevailed upon to agree to support Latham in preference to Dr. Gwin, and stood ready to counsel or persuade or urge his supporters in caucus to cast their votes for Latham. They had prevailed upon Broderick to grant Latham a meeting for the purpose of arranging the

terms upon which he would agree to bring his friends to Latham's support in caucus. And so effectually had they wrought during the day that the impression upon the streets that evening was that, notwithstanding Tilford's defection in the morning, and the damage occasioned by the Vigilance Committee complication, the victory would yet be won by their champion, probably that very night. Tilford had finally been brought to cease his denunciation of Latham, and to adhere to his support in caucus, and it was apparent by the changed manner and more confident tone of Latham's managers that they considered their work nearly accomplished. But the more devoted of the Democrats who had supported Weller were determined to defeat Latham if it could be done by any means at their command, for they attributed Weller's defeat to the bargaining of the Latham men with Broderick to bring off the nomination of the long term first, by which Broderick's election had been unquestionably secured, and the opportunity given him to control the choice of the Senator for the short term.

The caucus met Saturday evening, January 10th, Senator Jo Walkup, who had been a devoted Weller man, and was still, and was also for Gwin, in the chair. Speaker Beatty made explanation of his vote for Broderick, in vindication of aspersions cast upon him for that act. He was now resolute for Gwin. Senator Ferguson withdrew the name of Colonel Frank Washington from candidacy. Then followed the balloting. The first ballot of the evening, the seventh of the series, showed 30 for Gwin, 26 for Latham, 18 for McCorkle, 5 for Field. Of those who had voted for Washington on the sixth and last ballot the preceding evening, Ferguson of Sacramento, Johnson of El Dorado, and Moore went over to Gwin; Dosh, Shaw, and Shuler voted for McCorkle, Miles of Sierra for Field, and Varney for Latham. Hume changed from Gwin to Latham. The eighth ballot resulted: Gwin, 31; Latham, 25; McCorkle, 17; Field, 6. Hume had returned to Gwin; Shaw had changed to Field.

The ninth ballot gave Gwin 32; Latham, 23; McCorkle, 17; Field, 7. Talliaferro had changed to Gwin, Livermore to McCorkle, and Warrington to Field. On the tenth ballot the vote was: Gwin, 31; Latham, 24; McCorkle, 18; Field, 6. Hume had again changed to Latham, and Shaw to McCorkle. The eleventh ballot was called: Gwin, 30; Latham, 24; McCorkle, 18; Field, 7. Talliaferro and Shuler had returned to McCorkle, Shaw to Field. The caucus then adjourned to Monday evening.

That night, after the adjournment of the caucus, the friends of Latham were exuberant, and Gwin's managers uncommonly vigilant and active. Broderick's headquarters were watched every minute of the whole night through, and all the next day—for Sunday was on that occasion no more than any other day—in front and rear, by a faithful volunteer band, who were proof against sleeplessness, fatigue, intimidation, or temptation to corruption. Not a soul passed in or out who was not "spotted" and traced, or "shadowed," if that was required. A similar watch was maintained upon Latham's headquarters at the Fashion, and every movement of McCorkle, Estill, Conness, Mahoney, and Tilford was observed and reported at the Gwin headquarters. "Snaggletooth" Billy Williamson was likewise "shadowed," for he was cunning of artifice and fertile of expedients. It was not required to keep watch of Colonel Butler's actions or presence. The interest rested with the others. And notwithstanding the sanguine behavior of the Latham men, the action and activity of his managers betokened that there was still lacking among them the confidence of certain victory. Broderick, with his credentials as United States Senator safe in his pocket, by due election by the joint convention of the Legislature, had grown even more exacting and more imperious than he had shown himself to be the day after his nomination in caucus. The zeal and solicitude of his former rivals and opponents, now become his suppliants in a measure, if not absolutely, had given him clearer insight and outlook of his own coigne of vantage; and his

power of place had aroused within him new emotions, inspired him with the disposition to exercise that power, and determined him to use his freshly gained giant's strength with all the might of a giant who had been spurned and belittled and derided by those who had at length, in his hour of supreme triumph, been brought to realize and dread and beseech his power, in their own eagerness to serve with him, if not subject to him, in the most august assemblage in the world, where every member is supposed to be the full peer of every other member. His sublime self-consciousness of his unparalleled mastery carried with his exultation the determination to pay off old scores, by compelling his suppliants to the most humiliating self-debasement, to humble themselves before him in order that they might be exalted.

In his steeled nature there was not the quality to forget, though he might condone, the treatment he had endured in the long period of his extraordinary struggle for the lofty position which was now his own, and from which he was enabled to dictate the terms to whomsoever should be his colleague. He had resolved indeed to "pull their claws" and put his "brand" upon them.

CHAPTER XX.

THE DAY OF EVENTS — DR. GWIN'S MIDNIGHT VISIT TO BRODERICK—VICTORY ASSURED—THE FINAL CAUCUS —GWIN SECURES THE NOMINATION—CLOSING SCENES.

Sunday, January 11th, 1857, was not religiously observed in Sacramento, State capital although it was, by either the elect or non-elect of the senatorial principals or their respective managers and active supporters, certainly not by the henchmen and troops of workers in the political hive. The only man among the first-named class in frame of mind to listen to sermonizing was David C. Broderick; but his duties to his friends rose superior to his disposition to devotional observance of the holy day; and at best he had been an indifferent church-goer at any period of his eventful life. But could prayers have availed the aspirants for the short-term seat, the probabilities are that the devoutest among the faithful of orthodox believers would have been left behind either of them in the outward manifestations of divine grace involved in church attendance that memorable Sabbath day.

All the morning there was an ominous quietude at the Magnolia and about the Fashion, and the watchers in the service of Dr. Gwin were nonplussed by certain mysterious signs of strange moment, but which were duly appreciated at headquarters; for the word thence came to relax the vigilance in no particular, in fact, to increase it beyond the likelihood of any movement or indication to pass unnoticed, or without instant report to the chief manager. Rumors were in the air of a meeting between Broderick and Latham, and the speculations as to its nature, purpose, and result, were many and diverse. A "feeler," that even then it was not too late for John Bigler to be brought forward as a compromise candidate upon whom to center, put forward by a busy, bustling, pragmatic admirer of the ex-Governor, was as a bit of harmless humor to amuse the overstrained managers,

and afford such temporary relief from mental anxiety, as a sudden burst of sportive laugh, tinged with irony, as something too comical and absurd for gravity and composure; but it had no second, and fell at once into the nothingness which inspired it. Ex-Governor Bigler had himself shrewdly realized the fact that that was not his opportunity, and his dutiful Langley, deftest of pickers-up of all manner of confidences, revelations, and unconsidered trifles, had discovered that there was not so much as an unguarded peep-hole for the ex-Governor to make his way through.

Thus matters continued until after 4 o'clock, Sunday afternoon. Very soon, subsequent to that, there were indications that the skies were less bright, figuratively, for the hopes of Mr. Latham. These signs were confirmed by the movements and actions of Conness and Mahoney. There was a singular lull in the Fashion camp that evening; a corresponding stillness at the Magnolia. Dr. Gwin had few visitors, none but the most intimate and devoted of his friends—Major Dameron and one or two others; but he was in visibly better spirits than he had shown since the preceding Wednesday. At an unusual hour—about 11 o'clock; for midnight was *early*, as hours were accounted during that tremendous struggle—he signified his purpose to retire, and his dark room gave token that he was no longer "visible" that night. Those who called, reported the circumstance to others of his friends who desired to see him, and after a brief interval there were no more footfalls along the hallway of his apartments in the Orleans Hotel. But Dr. Gwin did not retire; he did not sleep that night. Nor was he watched, nor "shadowed." He had eluded the keenest of those set to watch him, and devoted friends had adopted methods by which to divert those watchers in other directions, in which they were led a "will-o'-the-wisp" bewildering dance, whilst he went his own determined way, with a single trusty companion.

There was a court-yard to the Orleans Hotel, the rear of which opened on a narrow alley which ran to J street, and

thence to the rear of the long arm of the L to the Magnolia. Dr. Gwin's apartments in the Orleans were on one of the long rear extensions of the parlor floor, and there was a rear stairway which led down into the court. Mr. Broderick occupied room No. 6, in the Magnolia, just at the angle of the two halls, not far from the head of the staircase which extended from the lower floor hall that had rear egress upon the alley. In passing from the Orleans court to this rear portion of the Magnolia, one had to cross J street, but that part of the street was devoid of public houses, and usually without loungers or passers at late hours of night. Through the alleys no one ever passed, unless required to do so in the way of business; it was simply a passage for marketmen in supplying the hotels, servants, ashmen, scavengers, and the like. It had no sidewalks; only a string of planks was laid to enable footpassers to avoid the dirt and muck.

Just about midnight, when Sunday was passing into the fresh following week of toiling days, through the upper hall of the Orleans softly stepped two men, the one much larger in figure and of greater stature than the other, and attired in a long dressing-robe, dark as the night itself. They hurried down the rear stairway, through the courtyard, into and along the alley, across J street, struck at once into the continuation of that alley, and to the two or three steps before the door at the rear hall of the Magnolia. A light rap on the door was given. Up to this time not a mortal had observed the two. The door-bolt was instantly drawn, the door carefully opened part of the way, and Colonel A. J. Butler stood ready to show the pair the way through the hall to the stairway, which they ascended, while he remained at the foot. In a few steps, room No. 6 was reached. A tap at the door brought the occupant to open it. A bright light gave ready opportunity to observe the furniture of the room. It contained only the bed, two chairs, and a small table, besides the toilet arrangements. He was a tall man of strong mould, plainly dressed in a suit of full black cloth,

who stood at the door inside, and evidently had expected this midnight call. His prompt and courteous salutation was: "Good night, gentlemen; walk in; Dr. Gwin, I am glad to see you; be seated." Dr. Gwin took the proffered hand of his host, suitably responded to his salutation, seated himself, and the friend who accompanied him rested upon the side of the bed, as Mr. Broderick had taken the other chair to his own use. After a brief conversation, the friend withdrew, and Dr. Gwin and Mr. Broderick were left in the room together.

Before leaving the house, the companion of Dr. Gwin had a conversation with Colonel Butler in the lower hall, in tones that no eavesdropper, had there been one, although there was not, could have overheard, and then withdrew, taking care to see that no one watched his way. The work of the night was done. There was little more to do, in working sense. And the feeling he carried with him was the paraphrase of St. Matthew—Sufficient unto the morrow night will be the good of all this. It must be that, on the coming night, or a Waterloo; and for the first night since the Legislature had convened, the satisfied and more than sanguine friend retired to long sleep and pleasant dreams, with the conviction that the weary work and sleepless vigil would be no more required. Yet it was too soon to exhibit manifestations of the joy that filled him; for reticence and extreme caution were still absolutely essential to the hopeful outcome which lacked simply the coming of the hour for its consummation.

Dr. Gwin was a quiet man the Monday succeeding that most eventful Sunday. Never did man bear himself more discreetly toward all. He had earnest conferences with his friends. He was at times closeted with his most devoted supporters in the caucus. They left him inspirited, and as men who felt that victory would reward their years of devotion, their fatiguing struggle, now. They were gratified, though they restrained any show of jubilation or buoyancy; they were as men gladdened with generous port, not

exhilarated by the sparkling champagne. And they all appeared to be as corps commanders, delighted and in perfect accord with the plan of battle, eager to faultlessly perform the part assigned them, to assure the victory to their commanding general, without peril of failure and disaster in their respective spheres. Less attention was devoted to the movements of the Latham managers and workers that day; the absorbing duty was in the home camp, to guard against spies, and to keep in line the wavering. But it was somewhat important to placate and to deal with one or two who had more or less influence with the caucus members, and with a very few of the members themselves. There was the Field vote, not a fixed quantity in reality, but nevertheless essential, and more at the disposition of Mr. Broderick in an emergency than of the candidate for whom it had been generally cast. It was better to be a Judge of the Supreme Court than to remain as a defeated candidate for the Senate; and there were powerful leaders then at Sacramento, who could safely promise the nomination of a judgeship by the Democratic State Convention in the summer of that year, which the Democratic voters of the State would ratify at the polls. Few then cared to confront Mr. Broderick, or refuse to him whatever he demanded; and as the friend of Mr. Broderick for many years, with his yielding nature, the candidate whose six or seven votes were then likely to be required for another candidate more agreeable to Mr. Broderick, was not the man to resist his demand or his request.

Speaker Beatty, of Calaveras, was one of Dr. Gwin's most devoted friends. He had voted for Broderick in preference to Weller. He cheerfully gave up his Speaker's room in the county court-house in Sacramento, then occupied as the State House, to the companion of Dr. Gwin who attended him in his midnight visit to Mr. Broderick, for Monday evening, during the session of the caucus. A winding stairway led to it from the broad hall which served as a lobby to the Assembly hall. At every meeting of the caucus sitting, before that, Dr. Gwin had himself occupied the

room with his friends. That evening he would not be present; he remained at his room in the Orleans. The friend to occupy it had his commands as to what should be done. Senator McGee, of Plumas County, was another of Dr. Gwin's earnest and steadfast friends; he also had preferred Mr. Broderick to Weller. It had been arranged that he should keep careful tally of the ballots, and immediately that Dr. Gwin had received the necessary vote to secure his nomination, he was to pass a bit of paper, with the vote given in numbers, without the names of the members, to Sheriff Dave Buell of El Dorado, an ardent adherent of Dr. Gwin, who was at once to pass it to the friend, he to be on the stairway, where the note could be handed him by Buell, and, with a carriage at the State House door awaiting him, he could then hasten down town to telegraph the word, first to San Francisco, and also to apprise Dr. Gwin, in order that the preparations for the wine-flow to follow the victory might be gone on with at the hotel, to be ready for the caucus members and the public as soon as they should arrive to congratulate the victorious candidate for the short term. Sheriff Buell had been selected on account of his towering stature—six feet, five inches—and his great strength, which not only made him most conspicuous among the dense crowd which packed the lobby that evening, but also enabled him to force his way through it from the doors of the Assembly chamber to the stairway. He was the man of all others for the service.

The caucus met Monday evening, January 12th, at the appointed hour, Senator Walkup in the chair. The first ballot of the evening, the twelfth in full count, resulted: Gwin, 29; Lathem, 28; McCorkle, 17; Field, 5. The thirteenth ballot: Gwin, 31; Latham, 29; McCorkle, 19; Field not balloted for, his vote having gone mostly to McCorkle. Senator Talliaferro moved an adjournment; it was defeated —27 ayes, 52 noes. The fourteenth ballot was ordered. Members, as their names were called, in many instances rose to explain their votes so far, and to declare their pur-

pose in the change then made. The ballot gave this result: For Gwin—Chase, Crandall, De la Guerra, Dosh, Ferguson of Sacramento, Johnson of El Dorado, McGee, Maloney, Mandeville, Norman, Walkup, Westmoreland, Wilson, Anderson, Barrett, Beatty, Brent, Burns, Caperton, Coil, Covarrubias, Davidson, Edwards, Fuller, Hall, Hamm, Hume, Hunt, Hunter, Kendrick, Larue, Miles of Santa Cruz, Miles of Sierra, Moore, Orvis, Patrick, Pierce, Ricks, Rogers, Seawell, Shuler, Safford, Steele, Sweezy, Turner, Wood, Wyman—47.

For Latham—Carpenter, Merritt, Tilford, Aull, Burch, Carpenter, Cassin, Estill, Gilman, Graves, Hare, Harrison, Holden, Howard, Inman, Irwin, Livermore, McDonald, McCune, Mitchell, O'Neill, Showalter, Underwood, Varney, Warrington, Whipple—26.

For McCorkle—Johnson of Sacramento, Shaw, Talliaferro, Jenkins, Long, Morrison—6.

Forty votes were necessary to a nomination—the equivalent of an election—and Dr. Gwin had received forty-seven, or seven more than were necessary. He had gained the victory at last; the fierce and exhausting struggle was over. Broderick and Gwin were the United States Senators from California. But Latham had held his full vote in the face of all that had been said and done against him. He had supporters of the most steadfast and uncompromising, unyielding stamp. His friend General Estill made the motion that the nomination of Dr. Gwin should be unanimous. It prevailed; and while it was an accustomed act, coming as it did, from General Estill, it was moreover a graceful act. Field's vote, together with the larger portion of McCorkle's —mainly Broderick men—had gone over to Gwin. The caucus adjourned *sine die*.

CHAPTER XXI.

DR. GWIN CHOSEN SENATOR—HIS ADDRESS TO THE PEOPLE—RUMORS OF BARGAIN AND CORRUPTION—COLONEL WATKINS' INDIGNATION—BRODERICK AND GWIN AT WASHINGTON—TROUBLE BEGINS.

Tuesday, January 13th, 1857, the Legislature, in joint convention, chose Dr. Gwin United States Senator for the succession to his own seat, the term to expire March 3rd, 1861. Senator Gwin left Sacramento at 2 o'clock that afternoon, for his home in San Francisco, after having addressed invitations to every Senator and Assemblyman to attend at his residence in San Francisco, the following Thursday, to partake of a collation in honor of the election. Collector Latham was escorted on Tuesday, the day of the election, from his Fashion headquarters to the steamboat for San Francisco, by his twenty-six steadfast supporters, with music and a long array of admiring followers, where complimentary speeches were made in his honor, and handsomely responded to by him.

On Thursday morning the *State Journal* of Sacramento, the Broderick organ, of which B. B. Redding was publisher and editor, contained a leading editorial, in the course of which it remarked:

"The election of Mr. Broderick and Dr. Gwin has harmonized the Democratic party in this State, and rendered it invincible; and it is this circumstance which, more than all others, has turned the heads of the opposition. They fain would have had the old quarrel continued, to distract Democratic councils, and enable them to slip, or rather to steal, into office. They had hoped that the two wings of the party would have still afforded them opportunity to rob the Democracy of empire. But we maliciously rejoice at their disappointment, and can well afford to smile at their chagrin.

"These selfish and unscrupulous spoils-hunters, cry out: 'Bargain and corruption,' when Dr. Gwin publishes an address in which he castigates the men whom he had fed, and who deserted him when he most required their aid; when he magnanimously thanks his successful rival for his assistance; and when he assures us that he will never be the author of dissension in the ranks of the California Democracy. Demagogues are blatant with high-sounding phrases to deceive the public ear and pervert history.

"But, let the Vigilance, strangling, Abolition, and Know-Nothing press howl—exhaust their lives in vain cursing—the National Democracy are united, and cannot be lured from the path of duty."

The address to which allusion is made in the above, was published in the papers of the day, and was to this effect:

To the People of California:

I have thought it proper, in view of the senatorial contest which has resulted in the election of Mr. David C. Broderick and myself to the Senate of the United States, to

state to the people of California certain circumstances and facts which compose a part of the history of that arduous struggle.

After a laborious service in the United States Senate, during a term of six years, and at a juncture in the history of the State when the energy and fidelity of a representative could be most fruitful of results, I found myself at the expiration of the term, and after having, as I supposed, outlived the misrepresentations of my enemies, engaged in a struggle which has been again rewarded with confidence of the Legislature. My election was attended by circumstances which rarely occur in the course of such contests. A representative whose evil destiny it is to be the indirect dispenser of Federal patronage will strangely miscalculate if he expects to evade the malice of disappointed men. But the hostility, malignity, and abuse which have pursued my senatorial career, when at a distance from my maligners, and which have accompanied me during the strife just closed, are such, as I believe I may say, as a representative has never before endured to survive.

The opposition I have sustained comes from an unexpected quarter, and from those whose friendship I had believed, strengthened as it was by personal obligation, nothing could weaken or sever. Ardent, devoted, disinterested friends I had, whose fidelity remained unshaken from first to last, through storm and sunshine alike, and to these, one and all, my grateful acknowledgments are due.

But even the force of their attachment, faithful and zealous as it was, would have proved unavailing, if unaided, to meet and conquer the opposition which open hostility and secret treachery had arrayed against me. I had learned in the struggle that he who aids in conferring great official power upon individuals does not always secure friends, and that the force of deep personal obligation may even be converted into an incentive to hostility and hate. In a word, to the Federal patronage in the State do I attribute, in a great degree, the malice and hostile energy which, after years of faithful public service, and toward the closing period of life, have nearly cost me the indorsement of a re-election to the United States Senate. From patronage, then and the curse it entails, I shall gladly in future turn, and my sole labor and ambition henceforth shall be to deserve well of the State, and to justify the choice of the Legislature in honoring me a second time as a representative of its interests.

I have hinted above at other aid than that received from those whom I had regarded as friends; I refer to the timely assistance accorded to me by Mr. Broderick and his friends. Although at one time a rival, and recognizing in him even a fierce but manly opponent, I do not hesitate to acknowledge in this public manner his forgetfulness of all grounds of dissension and hostility, in what he considered a step necessary to allay the strifes and discords which had distracted the party and the State. To him, and to the attachment of his friends to him, I conceive, in a great degree, my election is due: and I feel bound to him and them in common efforts to unite and heal, where the result heretofore has been to break down and destroy.

WM. M. GWIN

SACRAMENTO, January 13th, 1857.

The principal editorial writer at that time for the *State Journal* was John White, an Englishman, who had years before published and edited political papers in Stockton and Sacramento, of strong anti-Broderick stamp. He was now as zealous in the cause of Mr. Broderick, and personally devoted to him. The publication of the address created uncommon excitement in political circles, and it was regarded with commingled surprise, humiliation, and anger among the large portion of the element classed as Gwin men. Rumors concerning "bargain and sale" and of "corruption and surrender" had been noised upon the streets, as between Broderick and the two leading aspirants for the short term, even before the caucus nomination of Dr. Gwin; but these had been generally viewed by the more conservative and respectable element of the party as mere emana-

tions from the "pot-house" class, devoid of substance and truth. The singular language of the address, which seemed to conceal more than it expressed, however, gave something of color and fact to these rumors; and behind and beneath it, was next whispered that there was a still more damaging instrument in writing, from Dr. Gwin to Broderick, which fully substantiated the very worst that the most illiberal reading of the address, between the lines, could convey, so far as Dr. Gwin's self-abasement, surrender, or humiliating conduct was concerned.

On his behalf, it was contended by the most devoted of Gwin's friends, that a breach of faith, for which Mr. Broderick was responsible, in greater or less degree, had been committed, by which the address was made public too soon; and the best they could say in exculpation or vindication of Dr. Gwin was that, although he had prepared it for publicity, and it contained no more than the truth, still the agreement was that it should not be so quickly given publication in the newspapers. But this plea made matters worse, instead of better. It was, after all, a tacit admission that there had been bargain, if not something even more mortifying and more censurable, between Broderick and Gwin, and the popular sentiment grew rather than diminished in condemnation. This feeling of sorrow mixed with anger, and, in some cases, of pain and disgust, prevailed with the more dignified class, and some in consequence abstained from the banquet, or collation, of Thursday, which was nevertheless largely attended, and it passed off fairly enough in jubilant form. Dave Buell attended it, although with manifest revulsion, and only after he had been persuaded that there remained nothing behind the address itself to compromise or affect Dr. Gwin. He was among the aspirants for the United States Marshalship, but he was of too sterling character to subordinate his manhood to his personal interests or his political integrity. The publication of the address unquestionably clouded the enjoyment of the best friends of Dr. Gwin at the collation, and much

dampened the hilarity of those who cared for his victory more as the means by which he should be enabled to apply it to the advantage of themselves in the line of Federal office or government patronage.

The return of Broderick to San Francisco was, on the other hand, an affair of very different nature. It was an ovation—an occasion worthy of a mighty warrior welcomed by a triumph after the ancient Roman form, glorified to the utmost. There were no captured monarchs or princes in his train, led in person and in chains; but the conjecture, Are there none of these? could not have been more plainly expressed in speech than it was signified in manner and symbols. He stood a conquerer, too, without equivocation; and such a conquest as he had made! Rejected again and again by the Democracy, at the polls and in the State Conventions and the State Legislature; overwhelmed at one time by a popular wave which would hopelessly have swamped any other leader, and fresh from another apparent defeat in the election of the year just past; still he had audaciously and undauntedly persisted and battled; and now, with the air and pride of a conquerer, who was himself most conscious of his extraordinary achievement, he strode to the possession of his place of power, as few political conquerers ever had, over the prostrate forms, figuratively, of every adversary and of every rival; and not the less over that of his colleague; who had been most conspicuous above all, ever since the statehood of California, for the great patronage he controlled and the powerful influence he wielded. He would consummate the absorbing ambition of his life; he would exult in his seat in the Senate of the United States; and if he had not made his way to it over the bodies or the corpses of his friends, with the penalty yet to "roast before a slow fire in the Plaza," it was measurably true that he had reached the place by trampling down all opposition; that the sacrifice was not yet apparent.

But the election of Broderick and Gwin was not accomplished in joint convention by unanimous vote of their own

party. Colonel Jo Watkins was neither to be cajoled by artifice nor disciplined by caucus rule. He delivered a speech eloquent with indignation and denunciation, in which he denied the right of the caucus to reverse the natural order of election, by nominating for the long term first; and he protested against the people's representatives in the Legislature usurping to themselves the authority to prefer to Senator Weller, the most popular among the Democratic voters of the State, one who had, as in Mr. Broderick's case, been rejected and repudiated by the great mass of these voters. They were bound in conscience and duty, he contended, to vote first to choose the Senator for the short term, and then to choose Senator Weller for the long term. Weller and Gwin were the two he felt himself bound to support, in obedience to the will of his constituents, and also to that of his party in the State. But he spoke and argued, expostulated and denounced, in vain. The joint convention, as a matter of course, chose Broderick the day following his nomination—a fateful Friday, as some of the superstitious subsequently regarded it; and Dr. Gwin's election was similarly consummated. The Whigs in joint convention gave their fourteen votes for Edward Stanly; the Know-Nothings—Ashley, Burnett, Bynum, Ferguson of Sierra, Fiske, Goodwin, McCallum, Mesick, Waite, Castro, Catlin, Clark, Curtis, Ferris, Rice, Smith, and Stevenson—voted for James W. Coffroth; and one vote was cast for Bynum. Coffroth acted no longer with Broderick. Subsequently he returned to that wing of the party, but finally he went over to the other wing, and there remained.

Senators Broderick and Gwin and ex-Governor Bigler left San Francisco late in January, 1857, for Washington, by the Panama Isthmus route. Broderick's return to New York city, which he had never visited since his departure in 1849, with the declaration that he would come back to it as a United States Senator, or never, was hailed by his old-time friends and admirers as an occasion worthy of such apotheosis as no other man ever received; but he hast-

ened on to Washington, there to await the 4th of March, and take his seat in executive session. Senator Gwin resumed his former seat on his arrival. Word of the peculiar circumstances which had attended the election of the two had already reached the East, and at the National Capital exaggeration and rumor had magnified Broderick's importance and power, with corresponding inverse ratio in respect to Dr. Gwin, who was in the dilemma out of which the prudent way was silence. He had at least compromised himself; some of his former warm Southern friends feared or felt that he had done even worse. Toombs of Georgia, the boldest and most powerful of the old Whigs, manifested something of admiration for Broderick; and the Republican Senators, with William H. Seward most prominent among them, took early opportunity of showing him uncommon attention for one not of their party. He already found himself known, with more favor and interest than even Senators usually receive at the outset of their membership.

The inauguration of President Buchanan duly celebrated, the new Senate met. Mr. Broderick took his seat. The pressure for Federal office was very great, and from California it was beyond that of any previous occasion. It was current report that Mr. Buchanan felt kindly disposed toward Mr. Broderick in the dispensation of patronage, and his troops of friends were overjoyed. But Mr. Buchanan, as an old and experienced public functionary, had become painfully conversant with the attendant evils and troubles of dispensing offices and favors; and to guard against these in his own behalf, as concerned the Senators and Representatives, and the applicants and the people, he had adopted the inexorable rule that the name of every applicant should be presented in writing, indorsed by the Senator or Representative who recommended the appointment.

This was a rule for which few looked or were altogether prepared for. That phase of history which Carlyle calls a distillation of rumors is the basis and authority for the

trouble which then occurred between President Buchanan and Senator Broderick. Above all else in the ways of political life, during his career in California, Mr. Broderick had become distinguished for the fidelity with which he clung to his pledged word in the return of favors, the rewards for services in his behalf. His promise to this effect was received as an assurance, and its performance was regarded as a matter to be neither forgotten nor neglected whenever opportunity occurred. It was, more than any other quality, his chief political capital, and held as a sacred bond. He could not afford, now that he was in the zenith of his power, in the place for which he had all the time struggled, to have shadow or suspicion of steadfastness and good faith to cloud or affect this first of all his titles to the love and devotion of his friends and followers. He had always denounced ingratitude among the blackest of sins, never to be forgiven; worse still, was the sin of disregarding and violating solemnly pledged word, allied with purposeful deception and deliberate determination not to discharge the sacred pledge. Anything short of death would be by him preferred to this reproach and duplicity. It would crush his nature, strong and indomitable as it was; it would fatally wreck his public life, now in its golden glory and meridian.

This rumor-distilled history is responsible for the assertion, from lips which were likeliest to know the facts they assert, that, in his warm gratitude and generous acknowledgment for the sacrifices and devotion they had incurred and demonstrated in his cause, from first to last, Mr. Broderick had at one time and another voluntarily given his pledge to two or three of his firmest and most zealous friends that, should the power or influence be his to wield or command, the collectorship of the port of San Francisco should be theirs—not collectively, of course, but solely to each one of the stated number; and the same authority accredited this solemn promise to Frank Tilford, to William M. Lent, and to either John Middleton or A. A. Selover, or, as some declared, to both these last mentioned. Simi-

lar assertions were made in relation to the marshalship. As some of the parties thus designated are still living, the correctness or erroneousness of the assertions can be ascertained. But it is stated as a fact, that in this difficulty arose the quarrel between President Buchanan and Senator Broderick, which the latter so vehemently pushed to the extremity of harsh and indignant denunciation in his place in the Senate, at a juncture when the destiny of the Democratic party was involved, if not imperiled. And there are now in San Francisco old and devoted friends of Mr. Broderick, who state that it was then that Broderick himself healed the breach which had subsisted between himself and George Wilkes ever since the memorable violent disruption of their past friendly relations of a lifetime, on the occasion of Wilkes's obtainment of the commission from Governor Bigler as Judge of the Supreme Court, to fill the vacancy made by the death of Alexander Wells; that Wilkes was then sought by Broderick; and that it was Wilkes who counseled the course which Mr. Broderick then adopted and pursued; who wrote for the irate Senator the bold and blasting speech which he soon thereafter uttered against the President; and who continued to be his counselor and prompter in his subsequent course in the Senate.

Whatever is the exact truth in these facts as stated, it is not upon such distillation of rumors that what now follows rests. Frank Tilford was unquestionably an aspirant for the collectorship. He had obtained from Collector Latham, during his candidacy for the Senate, the written pledge of that gentleman to recommend and press his appointment to that very important office. And it is absolutely true, that, January 19th, 1857, after the election of Dr. Gwin and the defeat of Mr. Latham, the latter forwarded his resignation as Collector to Washington, and recommended the appointment of Frank Tilford. For many years Mr. Tilford had been an active, ardent, devoted friend and worker in Mr. Broderick's cause. During the year preceding Mr. Broderick's election as Senator, Mr. Tilford had been his chosen

companion in his "still-hunting" tour of the State to promote his election; and Mr. Tilford had, in the session of 1857, assured his dearest personal friends that he had Mr. Broderick's promise of the collectorship for himself. Indeed, so absolutely confident was Mr. Tilford that Mr. Broderick would secure the office for him, that he had decided not to go on to Washington, but concluded to remain in his place in the State Senate during the whole session; and it was not until the friend who subsequently procured for Mr. Tilford his bondsmen as Naval Officer, at the East, upon his appointment to that office, urged him to make the trip, as the essential to his appointment would be his presence there, that he finally proceeded to the National Capital.

Despite all the pledges made in California, and all the secret arrangements agreed upon between the two Senators, in the spirit of Dr. Gwin's "Address to the People," which had first been given publicly in the *State Journal* of January 14th, the dispensation of the Federal offices in California was a matter which neither Mr. Broderick nor Dr. Gwin controlled, or even suggested, although the appointees generally were more favorable to the latter and to his wing of the party than to Mr. Broderick and his followers. Nor had the arrangement between the two Senators, as intimated, if not admitted, by the Gwin "address," proved at all binding at Washington, as this letter reveals, written by Dr. Gwin to Assemblyman Anderson of Nevada County, April 5th, 1857:

DEAR SIR: You will have a history of the events as they have transpired here within the last few weeks, from the newspapers. I *don't* think that I shall hereafter be charged with bargaining off the patronage of the Government to Mr. B. He has left this city in great rage, and sails for California to-morrow, with the intention of carrying the State Convention, nominate his own friends to the State offices, and censure the administration for the appointments that have been made. It is a bold game, in which he loses *everything* if he fails; and can he succeed? What will Nevada do? I hope it will stand by the administration. If Mr. Broderick succeeds, he will break up the Democratic party in California; and if he fails, he breaks up himself. Our friend Crenshaw is Postmaster, and I beg of you and *him*, and every friend in the county, to canvass it thoroughly, and carry the delegates to the State Convention. Write to our friends in the county, and place before them the true position of the case. The President, in making appointments for California has been governed by the desire to secure the most faithful public officers, and in doing so has sought to consult the wishes of the people and of our party in all sections of the State.

Very truly yours,

WM. M. GWIN.

Hon. WM. J. ANDERSON.

CHAPTER XXII.

WASHINGTON APPOINTED COLLECTOR — BRODERICK'S QUARREL WITH THE PRESIDENT — HIS RETURN TO CALIFORNIA, AND DISCLAIMER—THE STATE CONVENTION—WELLER VICTORIOUS.

The Federal appointments had been made for California out of the accustomed order in such matters, and were strangely ordered. Broderick having refused to recommend in writing the person he wanted appointed for Collector of the port of San Francisco, the office was left to other recommendation. Senator Gwin declined to present a name. This refusal and declination of the two Senators left to the two Representatives the better opportunity to urge the claims of their favorites. It was the same generally with the other appointments for the State. Col. McKibben stood best with the President. His father, Chambers McKibben, was one of the most prominent and influential of the Democrats of Pennsylvania, Mr. Buchanan's own State, and besides, a warm personal and political friend of the President. This happy relationship gave weight to Col. McKibben, and he prevailed more than Scott, his colleague, could with the Chief Magistrate in influencing the appointments. Frank Washington was the favorite of McKibben for Collector, and he was himself present to press his claims, indorsed by powerful friends with the administration from Virginia, and California as well. Gwin and Washington had resumed their former amicable relations, which had been temporarily disrupted by Washington's candidacy for the Senate in rivalry with Gwin; and as the sagacious Senator had put forward no one for the place, and preferred Washington to any of the Broderick wing of the party, he cordially acquiesced in and gave hearty support to the appointment of Washington as Collector. It was thus secured to Colonel Washington, notwithstanding the persistency with which ex-Governor John Bigler pressed his own claims for the office, backed as he was by the powerful influence of his

brother, the commanding Senator from Pennsylvania, with the President. To placate Bigler he was allotted the position of Minister to Chili. Frank Tilford had reached Washington and made his own fight for the collectorship, with Latham's recommendation to assist him, and the aid of Representative Scott to promote his chances. He was enabled to secure the appointment of the next most lucrative office, that of Naval Officer of the port. But he had now cooled in his ardor for Mr. Broderick, although there was no open rupture between them. He had ascertained, however, that it was not altogether the President's disinclination to gratify Mr. Broderick that stood in the way of his struggle for the collectorship, and felt assured that had Broderick recommended and urged his appointment, the office he so much coveted would be his. Colonel Thomas J. Henley was reappointed Superintendent of Indian Affairs, Colonel J. D. Fry as Postal Agent—alike the friends of Dr. Gwin. Major Solomon secured the United States Marshalship, which Broderick had promised to his zealous supporter, John B. Shaeffer of San Francisco. Major Roman, whom Broderick had defeated in convention in 1853, for Governor, to renominate Bigler, was made Appraiser-General, and Colonel Della Torre, a South Carolinian, was appointed United States District Attorney. Michael Kane, a Pennsylvanian, and a strong friend of Senator Weller, was given the appraisership at San Francisco. The strangest appointment was that of Charles H. Hempstead, as Superintendent of the Mint. Hempstead was a young man, very young for so responsible a position, and had never been of prominence or influence in the party. His father was a professional gambler, but an ardent adherent of Governor Bigler; and the son had for years served as private secretary to the Governor. It was the influence of the Biglers that had mainly helped him to get the place. Other and less important appointments for California were secured mainly by the opponents of Broderick; and his friends fared very meagerly in the distribution of the Federal patronage, from

which they had expected such rich prizes and profitable spoils.

The means of acquiring information of events, and of the undercurrent of affairs in Washington, at that time were solely by newspaper reports and private correspondence, and the medium of communication entirely by the steamship lines between California and the Atlantic coast. The causes and bottom facts in relation to the extraordinary turn of affairs which governed the California appointments; the true condition of the feeling between Senators Broderick and Gwin; the inspiration and motive for the breach that had so suddenly and unexpectedly separated them and reinstated the former hostility between the two; and the real cause for the trouble which led to Senator Broderick's high-tempered attack and denunciation of President Buchanan upon the floor of the Senate in open session;—all these events and occurrences were, accordingly, for mere lack of ample communication and authentic report between the Atlantic and Pacific, either not sufficiently ascertained or imperfectly understood; and among the comparatively small number of those who had accurate information of the whole trouble, and who did clearly understand the causes which produced it, policy, self-interest, prudence, and the welfare of the Democratic party, all combined, prompted and guided them to such discreet reticence as to await the attrition of time and circumstance for the remedy, or to shape their future action in accordance with their convictions or purposes. It was plain to them that the very arts and means to compose the long-endured and destroying factional dissension, strife, and schism in the Democratic party in California, and to weld and unite the organization in harmonious concord, had instead resulted in a split that was likely to rend and divide it more disastrously, and that the hostility of the factions would be prosecuted with greater bitterness and vehemence than ever, and with uncompromising malignity, out of which must surely flow the disintegration and downfall of

the entire party thus divided against itself in destructive war.

Senator Broderick hastened his return to California, maddened at his treatment by the President, disappointed in the failure of his plan to command the Federal appointments for his State, by which to strengthen his own influence, and to have in commanding places his own friends, and anxious as to the feeling and sentiment of these equally disappointed friends toward himself for this failure to demonstrate his own superior influence with the administration, and the consequent deprivation and loss to themselves. Senator Gwin's correspondence to trusted friends had foreshadowed Broderick's design as particularly hostile to the President and his administration, in pursuance of which his efforts would be directed toward securing the election of delegates to the State Convention who could be molded and governed to his own views and purposes. To be forewarned was to be forearmed. The first report of the inability of Broderick to control the Federal appointments had the effect to dampen the ardor of his expectant appointees, and to cool the fervor of the multitude who likewise reckoned upon official favor in subordinate yet lucrative or desired positions; but there were others who seemed to rally to him with redoubled vigor and warmth. They assumed that Senator Gwin had proved recreant to his promises to Broderick, to his avowals in the "Address to the People"; and they therefore upheld Broderick in his course, and applauded his boldness in denouncing the President. But the popular current was not with Broderick in his own party; although his faction or wing did not desert his standard. They awaited his return, accepted his explanation of the troubles he had encountered in Washington with accustomed implicit faith, and resolved to adhere to his cause with all the devotion which had formerly characterized their action in his behalf. But they had now to contend with the power of the new administration, as well as that of the dominant wing of the party in the State.

Ex-Senator Weller returned to California, May 16th.

The popular sentiment in his party had developed itself greatly in his behalf. Many believed that he had been basely tricked and cheated out of the return to the Senate, and they would avenge the wrong by giving him the Democratic nomination for Governor. The Federal appointments had reassured and strengthened the anti-Broderick element. Deputations from every part of the State waited upon him, to tender to him their support for the governorship, if he would consent to allow his name in candidacy for the office. Among these were a large number who had not before supported him, who had been mainly for Gwin or McDougall; and some of them had acted in the Gwin-Broderick combination, which at last gave both the election to the Senate. Judge Heydenfeldt, as the accredited representative of Senator Weller in the struggle against Broderick, the preceding winter, called upon his chief and imparted to him the details of the interview he had had with Mr. Broderick, and his own action—which had received the approval of Charles L. Weller, brother of the Senator—in respect to the offer by Broderick to assure to Weller the votes of enough of his friends to make Weller's re-election to the Senate certain, on condition that Judge Heydenfeldt should furnish him two votes from Weller's ranks, to likewise assure his own election. From the ex-Senator's manner, although he made no comment or response to Judge Heydenfeldt's revealment, the Judge inferred that his own conduct on that occasion had not Weller's approbation, and the subject was forevermore dropped between them.

Mr. Broderick had not been long in discovering that the impression which those opposed to him had industriously circulated throughout the State, that he had determined to make war upon the administration, was harmful to his own cause, and he soon adopted means to meet and overcome it. General Alfred Redington, the president of the California Steam Navigation Company, was among his most unselfish supporters, and he was widely and favorably known for his many acts of generosity to destitute

and needy emigrants and others. He and Mr. J. P. Dyer, also of Sacramento, addressed Broderick a long letter, June 4th, which was published in the newspapers, requesting him to define his position, and to state the nature of his present and past relations with Dr. Gwin. June 6th, Mr. Broderick replied, likewise through the newspapers, to this letter. In this letter of reply he declared that he did not return to the State to war on the administration, nor would he war upon it at Washington. He indignantly stigmatized the reports to any such effect as "maliciously false," and protested that it was dishonorable to impute to him a design so foreign from his thought. Concerning his own election and that of Senator Gwin, and the rumor of bargain between them in relation to the dispensation of Federal patronage, he solemnly asserted, that his own election was accomplished "without bargain, contract, alliance, combination, or understanding with anyone"; that it was secured "over a combined opposition of which Mr. Gwin was the head and front." And, with respect to the election of Dr. Gwin, he stated: "After my election, he sought my aid to secure his own. Between Mr. Gwin and myself there was no condition whatever in regard to the distribution of patronage. I learned subsequently, however, that he had agreed with others to take no part in the recommendation of a single Federal officer." And he then proclaimed to this effect: "I challenge my enemies to produce a man within the length and breadth of the State whom I ever deceived, or to whom I ever falsified my word."

The State Convention met July 14th, 1857. The anti-Broderick element had resolved to place ex-Senator John B. Weller in nomination for Governor. The supporters of Mr. Broderick rallied to the support of Judge McCorkle. The vote on the nomination was: Weller, 254; McCorkle, 61. The name of John Nugent, editor of the San Francisco *Herald*, which had been ruined by the blight inflicted upon its business by the Vigilance Committee, was presented in candidacy, on account of his determined hostility to the Committee, and in order to vindicate his course; but it had

been withdrawn before the balloting, as his friends found it impossible to prevail against Weller. During the discussion on a proposed platform resolution denouncing the Vigilance organization, Colonel Joseph P. Hoge, the acknowledged leader of the Convention, stated that the Committee had hanged four men, banished twenty-eight, and arrested two hundred and eighty; and that these were nearly all Democrats. It was true that the Committee had mainly proscribed Democrats; but it was also true that Colonel E. D. Baker, the most eloquent of the Republican campaign orators, had been similarly subjected to the Committee's proscription. And it was noteworthy that, while the Democratic press of the State generally opposed and denounced the Committee, and advocated law and order, the opposition papers quite as uniformly upheld or applauded the Vigilance movement; also, that their candidates elected to office in San Francisco were almost exclusively Republicans.

The campaign of 1857 resulted in the election of the Democratic ticket, with John B. Weller for Governor, and his steadfast friend, Jo Walkup of Placer County, for Lieutenant-Governor. John O'Meara, who was disposed toward Broderick, had been ardently pressed in Convention for State Printer against H. C. Patrick, the Weller candidate, by Colonel Hoge, had secured the nomination and was elected with the ticket. His nomination and election was regarded by some as a peace-offering.

CHAPTER XXIII.

ALTERED CONDITION OF AFFAIRS—BRODERICK AT DISADVANTAGE—AGAINST THE ADMINISTRATION AND WITH DOUGLAS—LECOMPTON AND ANTI-LECOMPTON—THE CAMPAIGN IN CALIFORNIA—BRODERICK'S BOLD AND FURIOUS ATTACKS.

The political events of 1857 in California, subsequent to the election in September, were not specially significant of further grave trouble in the Democratic ranks. Although the Democratic State Convention had appointed a State Central Committee largely anti-Broderick, and his friends had been generally ignored in the nominations for State officers, Mr. Broderick himself offered no factious opposition to the ticket, and the Democracy swept the State. Judge Field, elected Supreme Judge, in accordance with the arrangement made on his withdrawal from the list of senatorial candidates in competition with Dr. Gwin, the preceding winter, was the only prominent Broderick man on the ticket; and he was now elected to a position in which any opportunity to serve Broderick would be little likely to occur. John O'Meara's influence was simply local in San Francisco; and as he had no newspaper, there were no means by which to bring him expansion of this influence throughout the State.

Further to diminish the measure of power wielded by Broderick in San Francisco as well as in the State, from that which had been expected upon his extraordinary triumph in the senatorial election, was the character of the Federal appointments. Not much to his advantage, if not measurably or actually used against him, were the Naval Office, under Tilford, and the offices of Appraiser-General and Appraiser, under Major Roman and Michael Kane, respectively; while the Custom-house, with Washington at the head of it; the office of Surveyor of the port, with Gwin's friend Dameron rotated into it from the Naval Office; the suveyor-generalship, transferred from Colonel

Jack Hays to J. W. Mandeville, another of Gwin's zealous supporters; Solomon in the United States Marshal's office; the Indian superintendency, still in Colonel Henley's keeping; Austin E. Smith, the brother of Judge Caleb Smith, Broderick's antagonist in his first duel, as Naval Agent; the postal agency and San Francisco post-office, and nearly all the other positions of importance throughout the State, were actively and resolutely opposed to him. Only a very small share of the Government patronage had fallen to Broderick's friends, of which the collectorship of Stockton, given to Andrew J. Lester, Broderick's old New York friend, and the post-office at Sacramento, were the most lucrative or influential. In short, already had his grand victory over his partisan adversaries and rivals been reduced almost to a worthless quantity; and, instead of securing to himself the control of the party in California, through his own power and the Federal patronage, the outcome had proved so disappointing and disastrous that he found himself unable either to reward his solicitous friends, or to sustain himself against the potency of fresh, active opponents, now fortified by the power and influence of the administration at Washington and the State government at home, in the possession of his lately defeated competitor for the Senate—Governor Weller, who was determined to repay old scores with interest added.

It was in this condition that Mr. Broderick found himself placed in the second year of his senatorship, from which he had confidently expected so much, to arm him with almost supreme command in party matters in his own State. He had made the rupture between himself and the President an uncompromising matter by his angerful declaration, that never again would he cross the threshold of the White House while Mr. Buchanan occupied it; and by his hot-tempered denunciation of Buchanan on the floor of the Senate. And it was in this perverse humor, and this unalterable determination, he had taken his seat in the session of 1857-58.

A most momentous opportunity was soon given him at that session to exert his power for harm against the administration. The Kansas-Nebraska question had agitated the whole country for years. As early as 1844, Stephen A. Douglas, then member of Congress from Illinois, had opened the question by his bill to establish the Territory of Nebraska, and as Senator in 1853, he had, as chairman of the Committee on Territories, reported the House bill of Richardson of Illinois (actually his own), to provide for a territorial government for Nebraska—embracing the entire territory of the present States of Nebraska and Kansas. The bill was tabled, on motion of Senator Weller, although he voted against his own motion. It was finally passed, however, with amendments, by nearly the whole Democratic vote of both houses, in 1854, as a bill to organize the Territories of Nebraska and Kansas. Subsequently began the troubles in Kansas, which culminated in the rival conventions of Topeka and Lecompton to frame a State Constitution: the first to exclude slavery, and the last to admit it. The admission of Kansas with the Lecompton Constitution had become the burning question before the country in 1857-58; and in the Congress of that year it took precedence of all other questions of public and political importance. The administration and its wing of the Democratic party advocated and pressed the admission of Kansas with the Lecompton Constitution; Senator Douglas and his followers opposed it. A personal rupture between Mr. Buchanan and Douglas aggravated the political difference which the question had wrought; and the novel Popular Sovereignty theory promulgated by Senator Douglas, in antagonism to the doctrine maintained in his own Repeal of the Missouri Compromise Act, as it was interpreted by the other wing of the party, created a mutuality of acrimony and bad blood which was without parallel in the political history of the republic.

Mr. Broderick had, as State Senator in California in 1851-52, strenuously opposed the indorsement of the Fugitive Slave Act of 1850, and denounced then and subse-

quently the political conduct of Senator Douglas, in connection with that Act and with the Nebraska and Kansas questions. He had applauded Senator Bryan's denunciation in the Legislature of 1854 of Senator Douglas as a "Northern doughface and political charlatan"; and he had uniformly opposed the candidacy of Douglas for the presidency. Colonel McKibben had, in all these years, in the State Senate as well as in Federal station and private life, maintained a stand directly opposed to Broderick, in respect to principles and sentiments; although he preferred Buchanan to Douglas for President, on account of the warm personal relations which subsisted between his father and Mr. Buchanan, while Douglas was in accord with the administration wing of the party, during the presidency of Mr. Pierce; and he was foremost among the Democrats in California who denounced Douglas for his change of base on the Kansas-Nebraska question, in 1856. But in the session of 1857-58, Senator Broderick and Representative McKibben alike took sides with Senator Douglas in opposition to the Lecompton Constitution admission bill for Kansas, and against the administration. Furthermore, from a personal antagonism of six or seven years, sometimes carried to bitterness and hatred, the two became personally reconciled and friendly. And on the test vote in each House, on the all-absorbing question—the passage of the Lecompton Constitution admission bill—the votes of Broderick and Gwin in the Senate and the votes of McKibben and Scott were in conflict with each other: Broderick and McKibben against, and Gwin and Scott for, the bill.

There was now an implacable split between Broderick and the administration, in which Mr. Buchanan himself was as determined as the opposing California Senator. Gwin and Scott had composed their personal unfriendly relations consequent upon Scott's advocacy of Latham for Senator against Gwin, and the two controlled the distribution of Federal patronage in California. The Democratic organization of the State was largely in support of the

administration, and on the State Central Committee the Southern element had a considerable majority. A large proportion of the Federal appointees in the State were also either Southern men or possessed of Southern sympathies. And California was confidently regarded as a strong and safe "Lecompton" State in the coming election for State officers.

Senator Broderick and Congressman McKibben returned to California, after the session of 1859, resolved to rally their followers to the anti-Lecompton standard. Gwin and Scott also came to advance the cause of the administration, and to win indorsement of their own action in supporting the Lecompton Constitution bill for Kansas. It promised to be the hottest campaign ever fought in the State; inasmuch as not only the great leading issue of the whole country was involved, but also was there expected a war of the bitterest personal nature between Broderick and Gwin, with whom the extraordinary turn of affairs had brought startling vicissitudes of place and power in public aspect. They had surprisingly changed positions in respect to each other and in the popular estimation, so far as their own party was concerned, since the memorable senatorial election of 1857, when Gwin, in his "Address to the People," had publicly acknowledged his great obligation to Broderick for his own election, and intimated the heavy debt of gratitude thereby imposed upon him, especially with regard to the dispensation of the Federal patronage for California.

Mr. Broderick, in conjunction with Colonel McKibben, engineered the anti-Lecompton movement. The State Convention of that organization assembled at Sacramento in August, with Humphrey Griffith of Yolo, Broderick's long-time friend, as president. Among the vice-presidents were G. W. Colby, formerly in the Senate from Sacramento, and R. Irwin of Plumas, both of whom had, with Griffith, supported Broderick's scheme to force the election of himself as Senator in 1854. The opinion and wish of his friends was, generally, that for Governor the nomination should be given to General Redington, who had always acted with

Broderick's wing of the Democracy, and was now heart and soul with him in the struggle against the administration and the Southern element of the Democratic party. Then, too, they urged, with Conness foremost in the appeal to Broderick, that Redington was the most popular man in the northern division of the State, whence the majorities for their ticket could be worked up to the utmost. But Broderick had determined upon another candidate for Governor, and he would listen to neither appeal nor argument. John Currey should be nominated. He demanded it—insisted upon it; and his demand was gratified. John Currey had been a District Judge in past years. He was now a Republican, and the Republicans had placed him in nomination the year before for Supreme Judge against Stephen J. Field, by whom he had been overwhelmingly defeated. He had never been a Democrat in sentiment, and this was the strong point urged against his nomination by Broderick's shrewdest and most zealous friends. Notwithstanding their protestation, Broderick forced the nomination of Currey. John Conness was nominated for Lieutenant-Governor; Jo McKibben was renominated for Congress by acclamation, and, for his colleague, Samuel A. Booker of San Joaquin was put on the ticket. Among other nominations were Royal T. Sprague for Judge of the Supreme Court, Edmund Randolph for Attorney-General, and John O'Meara for State Printer. The Lecompton Convention nominated Milton S. Latham for Governor, John T. Downey for Lieutenant-Governor, John C. Burch and Charles L. Scott for Congress, W. W. Cope for Supreme Judge, Thomas H. Williams for Attorney-General, Charles S. Fairfax for Clerk of the Supreme Court, and for State Controller, Samuel H. Brooks. The Republican candidates for Governor and Lieutenant-Governor were Leland Stanford and Kennedy; for Congress, Colonel E. D. Baker and Jo C. McKibben. Their convention indorsed the course of Broderick and McKibben in Congress.

For the first time in his life, Mr. Broderick canvassed the State as a stump-speaker. He was not gifted with easy

speech, and had never trained himself to popular oratory. But his soul was in the contest now, and with all the fire and force of his passionate nature he sprung at once into the campaign. Gwin was the chief object of his fierce onslaught. He had now come to hate and loathe his triumphant colleague with irrepressible fury and scorn, and he cast aside all reserve, all confidences between them, and in the most expressive and most violent language he could command, he harangued the vast multitudes which everywhere gathered to see him, and to hear him, in denunciation and despisal of Gwin. Never had such a volume of vehement wrath and terrible abuse poured from the mouth of a public man, directed at another. The memorable wrathful campaign of great Tom Benton in Missouri, when a candidate for Congress after his defeat for the Senate, was as the gentle zephyr is to the roaring storm in comparison to it. He even went to the damaging extremity of impeaching his own former statements in solemn form, in his impetuous denouncement of Gwin; and in the wild delirium of his uncontrollable fury he lashed also Latham, and scored his former friend, Tilford, for alleged perfidy, ingratitude, duplicity and untruth. McKibben accompanied Broderick in his canvass of the State. Latham was accompanied by Tilford, now become a champion of the administration and of Lecompton, as well as a strong anti-Broderick man, and Judge Burch; Scott campaigned in company with Governor Weller; and Dr. Gwin and Colonel Baker, each for the cause the two severally represented, mostly spoke alone to different assemblages. The main attraction was the terrible denunciation of Gwin and Latham by Broderick, although of nearly equal interest was the more dignified but not less acrimonious and forcible attacks and rejoinders of Gwin, and the more elaborate speeches and carefully tempered denials of Latham, sometimes of Tilford.

Broderick's greatest effort was at Sacramento, the evening of August 9th, at which General Redington presided. He had been received in great state by an immense concourse at the levee where the line of procession was formed

to escort him to the place of meeting. Colonel A. J. Bryant was grand marshal, and the scene exceeded any demonstration ever witnessed in the Queen City. On that occasion, Broderick was not happy in the delivery of his speech; but he proclaimed his line of attack clearly enough, and presented the documents upon which he depended to prove all that he had said and all that he should say during the campaign concerning Gwin, Latham, and Tilford. He spoke to a densely packed crowd of thousands, the greater portion of whom sympathized with him; and while they overlooked his lack of the graces of rhetoric, they tumultuously applauded every stinging, pungent, caustic thrust and weighty stroke he dealt his three conspicuous foes. It was the opening of the charge and counter-charge of rankest political foulness, dishonor, corruption, and humiliation. It compromised himself, but he cared not for this; it laid bare the conduct and rottenness in moral point of view, of his hated and contemned adversaries; and with this he was content.

CHAPTER XXIV.

AN EXTRAORDINARY CANVASS — CRIMINATION AND RECRIMINATION — BRODERICK'S CHARGES — GWIN'S REJOINDERS—LATHAM'S DENIALS—THE SCARLET LETTER —DARK FORESHADOWINGS.

In his famous Sacramento speech, Tuesday, August 9th, 1859, Senator Broderick began by saying:

"I come to-night to arraign before you two great criminals, Milton S. Latham and William M. Gwin. Latham has denied the charge made by me, on the authority of Tilford, that he had stolen, or caused to be stolen, the letter given by him [Latham] to Tilford, as a recommendation for Collector of the port of San Francisco; and a statement has been obtained from Tilford which, while he denies no facts stated by me, is designed to involve in obscurity and doubt the facts of the case. I have stated that Tilford came to me and said that a pledge had been given to him by Latham; that Latham, or some one deputed by him, had afterwards come to his [Tilford's] room and stolen the same. Tilford does not deny this, nor that he then therefore urged me to defeat Latham; but he says that he discovered his error in time, and came to me to tell me the letter had been recovered, and that he had taken back the charge against Latham in consequence. It is true, that he did come to me and tell me that the letter had been recovered and returned to him; but I never knew that he withdrew the charge against Latham until he gave the latter the whitewashing letter of February 23th, which made its appearance in Nevada City."

To corroborate his statements in relation to Tilford and Latham, Mr. Broderick then read this letter:

Oroville, August 5th, 1859.

Hon. David C. Broderick:

Dear Sir: I am in receipt of your note inquiring of me the facts, as I may recollect them, in regard to the election of United States Senators in 1857. My recollection of the main features of the election is perfect and distinct. After your election, General Estill, Mr. Conness, and myself met in a room for the purpose of consultation. After thoroughly canvassing the sentiments and inclinations of the various members of the Legislature as to your colleague, I became satisfied that my own election was impossible.

The next question considered was, whom we should support; and we came unanimously to the conclusion to support Mr. Latham. This fact was, as I was informed, communicated to Mr. Latham, and his election was considered certain by our friends; and I have always thought that such would have been the result if Mr. Tilford had not interrupted the arrangements by charging, as he did, both privately and publicly, that a certain document given him by Latham had been spirited away. Mr. Tilford was very much excited about it, and indignant; and I understood from your language and manner that you were similarly affected. You stated that Mr. Tilford was and had been for a long time your devoted and effective friend, and that you would not support Latham; that you would support Gwin first. I refused to consent to the election of Dr. Gwin and never did withdraw my opposition.

There are many other points connected with the election of United States Senator; but what I have stated appear to me to be all that are necessary to notice as the question now stands.

Respectfully yours, etc.,

JO. W. McCORKLE.

Mr. Broderick had stated in speeches elsewhere in the State, that Mr. Latham and Dr. Gwin had each and alike separately agreed to surrender to himself the distribution of Federal patronage under the Buchanan administration, so far as either of them was concerned, in the event of an

election, in case he should aid the one or the other in securing the senatorship for the short term. This statement Dr. Gwin and Mr. Latham had alike denied, and they cited to disprove it, similarly, this strong declaration from Mr. Broderick's letter of June 6th, 1857, to General Redington and Mr. J. P. Dyer: "Between Mr. Gwin and myself there was no condition whatever in regard to the distribution of patronage. I learned, subsequently, however, that he had agreed with others to take no part in the recommendation of a single Federal officer." And again, from the same letter, this more comprehensive asseveration: "My own election was without bargain, contract, alliance, combination, or understanding with anyone, over a combined opposition of which Dr. Gwin was the head and front. After my election he sought my aid to secure his own. I challenge my enemies to produce a man within the length and breadth of the State whom I ever deceived, or to whom I ever falsified my word."

These declarations, it was contended by Gwin and Latham, were traversed by the later statements of Mr. Broderick, both as concerned his own election and his participation in electing Dr. Gwin, and in respect to the arrangement in regard to the Federal patronage; also as to the alleged agreement to the same effect with Latham—for, if he had made such terms with Latham, it was himself who had practiced deception and failed to keep his word, inasmuch as he afterwards engaged with Gwin to elect him and thereby to defeat Latham. But Broderick had foreseen this line of denial; and to meet and overcome it he had taken the precaution to secure these letters to substantiate his own word whenever the occasion occurred:

SAN FRANCISCO, January 20th, 1857.

HON. D. C. BRODERICK:

Dear Sir: In answer to your communication relative to what occurred between the Hon. M. S. Latham and yourself on the night of the 12th of January, 1857, and in connection with the senatorial contest, I have to say: That I was requested by Mr. Latham to see you, and say that he authorized me to draw a written agreement, in which he would consent that the patronage for California should be exercised for yourself, so far as he was concerned, with the exception of a single promise he had made to Hon. C. L. Scott concerning the United States Marshalship. He also said there were two other appointments he would like to see made, but they should both be subject to your approval.

I am, sir, very respectfully, your obedient servant,

JAMES M. ESTILL.

SAN FRANCISCO, January 18th, 1857.

HON. DAVID C. BRODERICK:

Dear Sir: It was always understood that, in the event of Mr. Latham's election, you should have the control of the Federal patronage in California. Such, at least, was the belief of myself and others; and this belief was derived from the remarks of Mr. Latham on several occasions, and I am confident he will not deny the truth of the above statement. I saw no impropriety in such an agreement on his part, as your more enlarged experience in politics, and thorough acquaintance with the men of California, made you the more suitable adviser of the Federal Government in this matter.

Very respectfully,

FRANK TILFORD.

Mr. Broderick then explained why he had not supported Latham for election as Senator, to this effect: "Latham had deceived and endeavored to betray me, and I had no one to select other than Latham or Gwin. McCorkle was my first choice, whom I preferred to any other in the State." But, he went on to say, he had entertained propositions from Latham, and he stated that Latham had finally come to see him, in disguise, and that he awaited his opportunity to do so in concealment, in a water-closet, in order that the person then in conversation with himself [Broderick] in his room might not see and recognize him [Latham] on his awkward and humiliating errand. But Mr. Broderick was careful to avoid mention, and he felt sure that Mr. Latham would not then recall the fact, that, in arranging the plan of election, so as to bring off the election of the long term, for which only himself and Weller were candidates, he had sought and procured the assistance of Mr. Latham's friends, without whom the plan could not have been consummated, and his own election would have been once more in doubt; inasmuch as it would have depended very much on the wish or intimation or dictation of the successful candidate for the short term, chosen in the regular order of things; and at that time Mr. Broderick lacked really two votes of a majority in caucus to nominate him. Dr. Gwin was practically bound, by the mutual agreement that had been made with Mr. Broderick, in April, 1856, to favor his election as his own colleague in preference to Weller; but meanwhile, Gwin had discovered Broderick's real preference for McCorkle, and this might have inspired him to similarly break faith with Broderick.

Broderick prosecuted the canvass in the same fierce spirit

he had manifested at Sacramento in every portion of the State—at Yreka, at Shasta, at Quincy, in Plumas County, at Santa Rosa, and elsewhere. At the latter place he repeated the whole story of the bargaining of Latham and Gwin with him, and of the self-debasement of each to himself; and then, with prideful, gloating spirit and ineffable scorn, he declared, in his harsh, fierce, impulsive manner: "I had then my commission as United States Senator in my pocket, when old Gwin came begging at my feet for favor and help. I remembered all that he had said and done against me; and before I would have refrained from my opportunity to humiliate him, I'd have torn my credentials into pieces, and thrown them in the fire!" Everywhere he proclaimed that "Gwin was dripping with corruption." And as the cap-sheaf, to heap coals of fire upon him and involve him—himself in great degree included—in inextricable toils, he read this from Dr. Gwin's own hand:

SACRAMENTO CITY, January 11th, 1857

Hon. D. C. BROderick:

Dear Sir: I am likely to be the victim of the unparalleled treachery of those who have been placed in power by my aid and exertion. The most potential portion of the Federal patronage is in the hands of those who, by every principle that should govern men of honor, should be my supporters instead of enemies, and it is being used for my destruction. My participation in the distribution of this patronage has been the source of numberless slanders upon me, that have fostered a prejudice in the public mind against me, and have created enmities that have been destructive to my happiness and peace of mind for years. It has entailed untold evils upon me, and while in the Senate I will not recommend a single individual to appointment to office in the State. Provided I am elected, you shall have the exclusive control of this patronage, so far as I am concerned; and in its distribution I shall only ask that it may be used with magnanimity, and not for the advantage of those who have been our mutual enemies, and unwearied in their exertions to destroy us. This determination is unalterable; and in making this declaration I do not expect you to support me for that reason, or in any way to be governed by it; but as I have been betrayed by those who should have been my friends, I am in a measure powerless myself, and depend upon your magnanimity.

Very respectfully, your obedient servant,

WM. M. GWIN

This was the letter of self-debasement, of most pitiful humiliation, he had extorted from Dr. Gwin the night that the latter had gone to Broderick's room in the Magnolia House, attended by a single trusty friend, and no one else, save Broderick's close-mouthed manager, A. J. Butler, to see what was going on. The letter was intended for Broderick's sole knowledge, sight, and possession; but he had committed it, notwithstanding his pledge to the strictest privacy, to the custody of W. J. Ferguson, and from his possession, be-

fore his death, it had fallen into the hands of General Estill, and thence returned to the keeping of Mr. Broderick, for the public use he was making of it. At the time, it was known as the "scarlet letter," so characterized from the "scarlet letter" worn upon the bosom of Hester Paynne, in Hawthorne's celebrated book with that title.

But Dr. Gwin did not allow these attacks by Broderick upon himself to pass unanswered, or without vigorous and scathing denial and denunciation. If he did not meet Broderick at any of his appointments, he visited nearly every place where Broderick had gone, and there and elsewhere he assailed and execrated him in the most violent language he could use. At Yreka he said:

"Broderick's remarks about the senatorial election are a tissue of falsehoods from beginning to end. The main portion of his statement about Latham is false. Latham was a victim to Broderick's villainy in that contest. Under a garb of friendship, he concerted a conspiracy against me that is without a parallel in this or any other State. He deceived me, and then tried to ruin me; but I turned upon him and his minions, and I will pursue them as long as I live. I acknowledge with shame, that for a time I was deceived by him, and I am willing to atone for it in sackcloth and ashes. . . . . He intended to defeat my nomination, while professing to be my friend, to the very moment when it was made in caucus. He challenged me to this discussion. We will see if he will challenge me again to meet him, after what I have said to-night. He has returned home disgraced and dishonored, while I hold a position in the party that elected me of which any man may be proud. He will slander and lie upon me. It is his avocation; but I will survive it now, as I have survived it heretofore. He acknowledges that he was in the market."

Dr. Gwin's assertion that Broderick had designed to defeat his nomination all the time he professed to be his friend, up to the moment the caucus chose him, was derived on Wednesday evening, January 13th, 1857, the day following Gwin's election in joint convention, from Don Pablo de la Guerra, Senator from Santa Barbara. He was a gentleman of unquestioned probity and honor, and had steadfastly supported Mr. Broderick since 1854, all the time opposing Gwin. In caucus he had voted for McCorkle, until, as he stated, Mr. Broderick had requested him, on Monday morning, January 12th, to change his vote to Dr. Gwin. Don Pablo gave promise to do so, and he was not a man to break his word. But that evening, a short time before he went to the caucus, Mr. Broderick requested him to withhold his vote for Gwin. He told Mr. Broderick it was now too late, as his word was pledged to support Gwin. And he further

stated, in relating the circumstance, that that same evening Mr. Broderick, at the urgent solicitation of Mr. Conness and others, who favored Mr. Latham in preference to Gwin, endeavored to defeat the nomination which he had at an early hour that morning promised to the ex-Senator. It was this timely information, before Gwin departed for Washington, in the winter of 1857, which caused him to act as he did when the new administration came in, in March, with respect to the Federal appointments for California, and to doubt evermore the sincerity or fidelity of Mr. Broderick to his pledges.

Out of this exasperating war, and exchange of crimination and recrimination, which continued during the entire campaign, the most disagreeable and very hostile results were generally anticipated, of a personal as well as a political character. A difficulty had indeed occurred in San Francisco between Mr. Broderick and Mr. D. W. Perley, at the International Hotel breakfast-table, in consequence of some offensive language used by Mr. Broderick in respect to Judge David S. Terry of the Supreme Court, out of which grew a hostile message from Perley to Broderick. The latter declined to meet Mr. Perley, on grounds of personal equality; but at the same time he took occasion to remark in a significant manner that, while he would not receive a hostile message from any source during the election campaign then so fiercely raging, he should not be indisposed to properly respond to something of the kind as soon as the election was over. This significant intimation was given, in the response to Mr. Perley's note, June 29th. The election occurred September 7th, the same year. It was widely and variously commented upon and criticised at the time, and during the campaign, agreeably as the newspapers were friendly or otherwise toward Mr. Broderick. But the settled conviction in the community in all parts of the State was, after the language which had been exchanged between Senators Broderick and Gwin, upon the stump, there would be—there could be—no alternative except a hostile meeting

on what, in that code, is termed the "field of honor." Such meeting never came. The fates had otherwise ordered. The Black Friday of Broderick's election loomed into confirmation of the ancient malefic superstition concerning that fateful day.

CHAPTER XXV.

UNEXPECTED DIFFICULTIES—DUELING, AND BRODERICK'S IDEAS AND PRACTICE—THE AFFAIR WITH PERLEY—BRODERICK'S RELATIONS TOWARD JUDGE TERRY.

It had been very naturally expected, all through the envenomed campaign, that at its close there would be a hostile meeting between Senator Broderick and Senator Gwin. Each had, in earlier days, and on former occasions of less aggravation, demonstrated his determination or readiness to appeal or to submit to the code of the duello to demand or to accede to any demand made upon him to that extremity, according to the code, in the way of satisfaction or redress for mortal grievance or wounded honor. Mr. Broderick had met on the "field of honor" and received the fire of Judge Caleb B. Smith, for offensive language he had used toward ex-Governor Smith of Virginia, the father of his antagonist, and his life was no doubt on that occasion saved by his watch, in his pantaloons fob-pocket, upon which the ball from Judge Smith's pistol struck and glanced; not, however, without painfully hurting Mr. Broderick by the force of the concussion. He had likewise recognized and encouraged the code resort to avenge or satisfy personal insults in cases where his devoted friends were involved, notably in the duel between John Nugent, editor of the San Francisco *Herald*, and John Cotter, a member of the board of supervisors at the time of the excitement over the purchase of the Jenny Lind Theater for a City Hall, a scheme in which Mr. Broderick had taken leading part, and had prevailed upon Mr. Cotter to champion the sale in the board; and in that between Colonel B. Frank Washington and C. A. Washburn, editor of the *Alta California*, who had been inspired by Mr. Broderick to publish severe and galling personal strictures upon Colonel Washington, some of them from the more caustic pen of George Wilkes. He had also advised in the duel between his zealous devotee, Cris.

Dowdigan, and Colonel James Hawkins, a vehement opponent of Broderick.

Dr. Gwin had fought a duel with Judge McCorkle many years before; and only the preceding year, in Washington, he had had the trouble with Senator Henry Wilson of Massachusetts, over a matter in which the Massachusetts Senator had preferred Mr. Broderick to Dr. Gwin, as authority for remarks in the Senate, in an offensive tirade affecting California and her people, in which, to the interruption of Senator Gwin, that he was practicing "demagogism," he retorted that he "would sooner be charged with demagogism than with stealing"— a thrust intended to indorse the utterances of Senator Broderick in relation to Senator Gwin's connection with the Pacific Mail Steamship Company, and also with the sale to the Government of Lime Point, or what Mr. Broderick characterized as the "Lime Point Swindle." Gwin sprung to his feet, and denounced Wilson as "a liar, a coward, and a slanderous traducer of character," at the instant; and, after the Senate adjourned that day, threatened to horsewhip him. By the subsequent interposition of Senators Seward, Jefferson Davis, and others, the threatened castigation, or a hostile encounter, was prevented.

The public sentiment of California was averse to dueling; but, from the earliest period of the inrush consequent upon the gold discovery, that mode of satisfying or redressing personal affronts and grievances had prevailed; and the same community which, on other occasions, would denounce the code as "a relic of barbarism," was, singularly enough, the readiest to stigmatize as a coward, and socially or politically to ostracize, the public man who should decline to adopt this "barbarous" method of avenging his own honor, or of sustaining his own personal utterance against the one who should feel aggrieved thereat. Mr. Broderick was never a duelist by training or disposition. In his early rough life, as a tough fighter in the frequent conflicts of the New York volunteer firemen, he had fol-

lowed the custom of his class, and depended upon his fists, and physical strength and endurance; or, if weapons were resorted to, in desperate extremities, they were the tools and implements of the firemen: wrenches, spanners, trumpets, pipes, hose-butts, etc.; but pistols and knives were never used. He was courageous, and naturally disposed to stand his ground, or to meet force by force, no matter what the circumstances. He never adapted himself to the changes he found in other communities from the habits and customs in which he had been bred and become settled; but he nevertheless boldly faced and bravely accepted any alternative in preference to allowing impeachment or question of his personal courage and fearlessness. Hence, when he had resolved to enter upon public life in California, under the new and novel and unparalleled condition of society and community matters, he also determined to meet every emergency, and to face every peril, which the wild recklessness of the period and the exigency of the occasion required, in such manner as to gratify the most combatant of his friends, and to satisfy the demands of the most daring of his foes. He would, by this course, maintain his long-enjoyed reputation as a fearless and intrepid leader; ready to meet and surmount any difficulty or danger as a brave man should, among his friends and followers; and, moreover, he would command the respect and extort the admiration of his opponents and enemies.

Broderick found himself cast among a controlling element of different training and methods of life, in regard to community and public life. Affronts were answered or avenged by a resort to deadly weapons, either in street encounters or upon the dueling field; and to refuse, or to fly from this mortal arbitrament of the times, was equivalent to self-imposed exile, or certain to proscribe the "craven" from the society, and beneath the decent respect, of this ruling element, which had always been accustomed to appeal to these means of satisfaction or redress for personal wrongs and personal grievances. It was not in his

nature to evade or turn from whatever challenged his courage, or invited him to combat, in any form. And, as he was inexperienced and inexpert in the use of weapons, he applied himself to the mastery of their use with the same determined assiduity and commanding spirit which ever characterized his more important actions and movements. His duel with Judge Smith could have been easily avoided without reflection upon his bravery or his honor; but he appeared to be inspired with the resolution that the "chivalry" element should be taught to know and to appreciate the fact that a "Northern man" could not be deterred from his purpose, or overcome by mortal fear, even though life itself must pay the reckoning; and he went upon the field more to prove this than to attest his own fearlessness of death. He fought that duel, in fact, not so much to give satisfaction to his antagonist, as to vindicate the bravery of the Northern element he then represented, of which he aspired to be the most powerful and most honored representative. But in that duel he became duly cognizant of the necessity forced upon him of mastering the use of weapons to the utmost of his ability; and thereafter he applied himself to such purpose, that he became really one of the best, if not unmatched, in pistol-practice in the State. Yet, while he thus mastered the use of the deadly weapon, and although he was sensible of his peril in dueling and rose above it, he could never so absolutely control his nervous system as to fit himself in the very best and essential form for the terrible ordeal of the field; and this lack of power was painfully visible to his friends, upon the occasion of his duel with Judge Smith. He could have impetuously led a multitude in the very jaws of death, without the relaxation of a fiber, with fiercer courage as the peril became imminent; but he could not command that prodigious and yet singularly delicate nervous force of his, which made his passion so grandly terrible, his nature so exceedingly sensitive, so as to be the creature of absolute composure, which the duelist must be, in his place of mortal peril.

It had happened, before the acrimonious campaign of that year opened, that the name of Chief Justice David S. Terry was put in nomination again for the Supreme Bench, in the Lecompton Democratic Convention, and he, in common with other candidates, had been invited before the convention to make a brief address. In the course of his remarks he said:

"Who have we opposed to us? A party based on no principle, except the abusing of one section of the country and the aggrandisement of another; a party which has no existence in fifteen States of the Confederacy; a party whose principles never can prevail among freemen, who love justice and are willing to do justice. What other? A miserable remnant of a faction sailing under false colors, trying to obtain votes under false pretenses. They have no distinction they are entitled to; they are the followers of one man, the personal chattels of a single individual, whom they are ashamed of. They belong, heart and soul, body and breeches, to David C. Broderick. They are yet ashamed to acknowledge their master, and are calling themselves, forsooth, Douglas Democrats. When it is known—well known to them as to us—that the gallant Senator from Illinois, whose voice has always been heard in the advocacy of Democratic principles, who now is not disunited from the Democratic party, has no affiliation with them, no feeling in common with them. Perhaps, Mr. President and gentlemen, I am mistaken in denying their right to claim Douglas as their leader. Perhaps they do sail under the flag of Douglas, but it is the banner of the black Douglass, whose name is Frederick, not Stephen."

Judge Terry was of Southern nativity and rearing. His principles and sympathies in political matters were intensely Southern. He was not, however, nor had he ever been, a supporter or personal friend of Dr. Gwin. Between himself and Mr. Broderick, although the two differed so widely in political association and belief and sectional prejudices, there had, nevertheless, existed a fair if not warm degree of personal respect and mutual admiration. Broderick honored Terry for his incorruptible integrity as a public officer and citizen, and Terry admired Broderick for his determination and courage. Judge Terry was not involved in the campaign, as his judicial position forbade his appearance as a stump-speaker; and he was not a candidate before the people, as Judge Cope had received the nomination over him. It was his first and last public commentary upon the political situation that year.

At that time Mr. Broderick was immersed in the preparation for the hot canvass he had resolved to make. Naturally disposed to strong condemnation of whatever he disliked in public matters, and sensitive to anything which affected his own conduct or character, the remarks of Judge

Terry, when reported to him, caused him much irritation. A few days afterward, June 26th, while at breakfast at the International Hotel, in San Francisco, at which sat A. A. Selover and wife, and Mrs. Colonel James and Mr. D. W. Perley opposite to Broderick and the Selovers, in the course of conversation Mr. Broderick remarked to Perley, "I see your friend Terry has been abusing me at Sacramento." To this Perley responded, "What is it, Mr. Broderick?" Broderick's reply, as stated by Perley, was in these words: "The damned miserable wretch, after being kicked out of the convention, went down there and made a speech abusing me. I have defended him at times when all others deserted him. I paid and supported three newspapers to defend him during the Vigilance Committee days, and this is all the gratitude I get from the damned miserable wretch for the favors I have conferred on him. I have hitherto spoken of him as an honest man—as the only honest man on the bench of a miserable, corrupt Supreme Court—but now I find I was mistaken. I take it all back. He is just as bad as the others."

Perley asked, "Mr. Broderick, who is it you speak of as a 'wretch?'" Mr. Broderick replied, "Terry." Said Perley, "I will inform the Judge of the language you have used concerning him." Broderick retorted, "Do so; I wish you to do so: I am responsible for it." At this Perley remarked, "You would not dare to use this language to him." Broderick answered this by a sneer, and the repetition of Perley's "would not dare!" To which Perley, then becoming incensed on his own account, thus responded, "No, sir; you would not dare to do it, and you know you would not dare to do it; and you shall not use it to me concerning him. I shall hold you personally responsible for the language of insult and menace you have used."

Colonel Selover, when interrogated as to the language used by Mr. Broderick, stated that he had not used the profane expletive "damned," as Perley had reported, but in other respects the statement of Perley was generally if not

entirely accurate. D. W. Perley was a lawyer of Stockton in early days, but at the time of the occurrence made his home in San Francisco. He was a smart, active, able, and not very scrupulous attorney; and did not enjoy then a very reputable name in the community. When Judge Terry first became acquainted with him, Perley was a member of the Stockton bar, and in 1850 he had acted as the friend of Perley in the only duel that he (Terry) had ever taken part in or witnessed. And never since that time had Terry either participated in or witnessed a duel. In this case Perley was as good as his word. He hastened to look up a friend to carry a message to Senator Broderick. Several declined the service; but finally he prevailed upon Mr. Samuel H. Brooks, the dear friend of Judge Terry, to bear the letter demanding apology or satisfaction, with the understanding that all subsequent proceedings were to be conducted, on the part of Mr. Perley, by his friend, Colonel E. J. C. Kewen, then temporarily absent from San Francisco. The letter was taken to Mr. Broderick, after a refusal on his part to receive a message of such character in the manner it came to him, and to it he returned this reply:

SAN FRANCISCO, June 29th, 1859

D. W. PERLEY, Esq.:

Sir: Your challenge of the 27th inst. was handed to me last evening by Mr. S. H. Brooks. This morning, between seven and eight o'clock, one of the servants at my hotel informed me that two gentlemen were below, who desired to know if I had risen. I told the servant to say to them that I had. The servant returned with a note, purporting to be signed by Mr. Brooks, informing me that Gen. E. J. C. Kewen had arrived, and desiring me to address any answer I designed to your challenge, to Gen. Kewen, instead of to Mr. Brooks. This mode of procedure was so unprecedented that I had no resource but to decline the recognition of any note coming under the circumstances, by the hand of a servant. Subsequently Mr. Brooks and Gen. Kewen called on me in person. At this interview, the error committed in sending a note by a servant was corrected.

Two days have elapsed since the alleged insult was given. If I had been inclined to recognize your right to demand satisfaction, you have placed it out of my power to do so, by the publicity you have given the matter.

When affairs of this kind are to be arranged, it is customary to keep them a secret even from intimate friends. While I have refrained from making mention of the affair, I find it to be the subject of newspaper comment, and the theme of public conversation.

You know at the time you were searching for a gentleman to bear the challenge, that it would not be accepted. I informed you of the fact at the time the alleged insult was offered, in the presence of two gentlemen, and in language that could not be misinterpreted.

Your own sense of propriety should have taught you that the positions we relatively occupy are so different as to forbid my acceptance of your challenge. It is but a few days since you made oath that you were a subject of Great Britain. The giving or accepting a challenge could not therefore affect your political rights, as you are not a citizen of the United States.

For many years, and up to the time of my elevation to the position I now occupy, it was well known that I would not have avoided any issue of the character proposed.

If compelled to accept a challenge, it could only be with a gentleman holding a posi-

tion equally elevated and responsible; and there are no circumstances which could induce me even to do this during the pendency of the present canvass.

When I authorized the announcement that I would address the people of California during the campaign, it was suggested that efforts would be made to force me into difficulties, and I determined to take no notice of attacks from any source during the canvass.

If I were to accept your challenge, there are probably many other gentlemen who would seek similar opportunities for hostile meetings, for the purpose of accomplishing a political object, or to obtain public notoriety. I cannot afford at the present time to descend to a violation of the Constitution and the State laws to subserve either their or your purposes.

Your efforts to give publicity to the fact that it was your intention to send me a challenge, would justify me in giving a copy of this reply to the public. Circumstances will determine my course in this regard.

Yours, etc.,

D. C. BRODERICK.

Viewed in clear light, at this time, when prejudice and passion have passed out of the public mind, and the case can be reviewed in impartial manner, it appears inconsistent with the sentiments expressed by Mr. Broderick, in his letter to Mr. Perley, that, recognizing the dueling code, and aware, as he intimates he was, that "efforts would be made to force" him "into difficulties" of the nature of that then before him, he should have rendered himself obnoxious to such efforts by the use of the harsh terms in which he spoke of Judge Terry at the International Hotel breakfast-table, in conversation with Perley, whom he recognized as a friend of Terry. It was personal, offensively personal; and, as he betrayed before the heated colloquy ended, it was intended, manifestly, to be personal. The provocation he had, from Terry's remarks in the Lecompton Convention, was not of a character to justify personal replication. Terry's language was directed mainly against the party of which Mr. Broderick was the acknowledged leader, and, incidentally, his relation to that party was mentioned. But it was simply and exclusively political; public mention and characterization, clearly within the limits of ordinary and fair debate or allusion, and without the ingredient or tinge of personality. At the very worst, it in nowise reflected upon the character or upon the political standing of Mr. Broderick, in point of integrity or honor. But Mr. Broderick's language concerning Judge Terry was very harsh, very offensive, in a personal sense; and, in respect to the exalted position he occupied, as Chief Justice of the Supreme Court of the State, it was intolerable to one who, in such position,

was inspired with a just sense of the great dignity of the station itself, and a proper appreciation of the high duty he owed to his associates upon the bench, and the spirit which was due from him in upholding and vindicating the unsullied majesty of the law in its loftiest temple in the State. For it is not with the judiciary, as it is with the legislative or executive branches of the Government. These are, from their nature and composition, political and partisan, favoring their friends, and, in greater or less degree, used against their enemies. It is a common right, or, at least, a common privilege everywhere exercised, in monarchies and absolute governments, as well as in republics, therefore, to criticise and assail public men in political office, and to charge them with dishonesty, dereliction, and corruption. But the judiciary is not political; it should never be partisan or partial in any respect; and to impugn the integrity of the judges, or to assail the court itself, is, in every civilized community, justly viewed as the most dangerous of the qualities of unbridled or licentious speech or utterance in any form. And the degree of harm and censure must be held in due proportion to the source of impugnment or attack. That which should come from the lips or pen of one low in the scale of community respect would pass only for its insignificant worth; but that which flows from men in lofty station and of exalted character is likely to inflict injury beyond repair, and to blast reputation beyond redress. It was a Senator of the United States, the foremost leader of a formidable element in the State; the acknowledged champion of the wing of the Democracy he led in that extraordinary contest; the bravest and boldest of them all, who had aspersed the character of the Chief Justice of the State; and, by insinuation, if not directly, declared him to be "a miserable wretch," not an "honest man"; but only one of "a miserable, corrupt Supreme Court"; one "just as bad as the others" on that bench. And the eminent public man who thus stigmatized the Supreme Court, and who singled out the Chief Justice for his strong personal denunciation, had

earned and long borne the distinguishing attribute to true greatness and worth; the glorious praise that his word was always sacred; that he never broke his faith; that all that came from his lips was stamped with the genuine seal of incontestable truth. It was in this light that the world must ever view the subject in conformity with reason and right. It was in such light that the object of Mr. Broderick's strong language viewed it; and thence proceeded the catastrophe to which we now come in the conclusion of this work.

TER XXVI.

E CAMPAIGN — CHIEF JUSTICE RODERICK'S REFUSAL — MORTAL FALLS.

Wednesday, September 7th. The tate. Broderick and the Republ. The administration was strong- the campaign, and the extraordi- had attended it, of terrible charge character of crimination and recrimination, and the malignancy of the personalities, on the part of Senator Broderick and Gwin, coupled with the significant intimation of Mr. Broderick in his reply to Perley's hostile message, in June, that he should hold himself in readiness, after the campaign, to suitably respond to any call or demand that might then be made upon him, to answer for whatever he had uttered or might utter of a personal nature in regard to anyone—although he should decline to do so until that time—the public had been led to expect a hostile meeting between the two Senators, and the most intimate friends of Mr. Broderick, those closest in his confidence and more given to open avowal of their views and sentiments, encouraged rather than deprecated this common expectation, so far as their champion was himself concerned. It was notorious, that Mr. Broderick had become, by assiduous and skillful training, one of the best pistol-shots in the State; that he shot with surprising accuracy and with uncommon rapidity of glance; and that in the event of a duel, in which he should be the challenged party, with the prerogative to choose the weapons, there was not a man living who could excel, if any could equal, him in the quick and accurate discharge of a pistol. It was quite as notorious that Dr. Gwin was not a skillful pistol-shot; that the rifle was his favorite weapon (it was with rifles that he and Judge McCorkle fought in 1853); and

that he had neither the alacrity nor accuracy of Broderick. And as the duel, if duel there should eventuate, as everybody expected, should occur between the two fiercely hostile Senators, there was a general acquiescence in the belief of Broderick's friends that he would not be the one, should harm befall, to leave the field the loser or victim.

But an unexpected turn was suddenly given to this general expectation as to the individuality of the parties, or, at least, as to the challenging party. Chief Justice Terry had felt himself deeply offended at the language which Senator Broderick had used in respect to his character as a citizen and his uprightness as a judge, in the conversation with Perley at the International Hotel breakfast-table in June, and at the moment he became aware of it from the newspaper reports, which published it to the world, he had resolved to ask explanation or demand apology or redress; but the subsequent declaration of Mr. Broderick, that he should not answer for any of his utterances then, or during the campaign, caused him to desist at the time, and to avail himself of the significance of Mr. Broderick's language, to the effect that, after the election, he would not decline proper action in such matters. The election was now as good as over, and accordingly his time for the purpose he had resolved upon was immediately at hand. He left his residence in Sacramento, determined upon his unhappy mission, which he considered imperatively imposed, inasmuch as his assailant was a man of exalted position, of national character, whose reputation for truthfulness, candor, boldness of speech, and undaunted courage, was of the highest order; and to refrain from calling him to account for the blasting nature of his language would be interpreted by the people, and accepted by the world, as self-admission of the worst charged against him; or, that which was equally unendurable to a brave and honorable man, possessed of manly spirit, as a public confession of that craven quality which impels its despicable possessor to submit to any wrong or insult or degradation sooner than to attempt vindication or

demand redress, through abject fear of the consequences. Judge Terry was not of such debased stamp. Equally with Mr. Broderick, he preserved his honor as a man above all else, and was ever resolute in its vindication. He was not experienced in the use of pistols, as he was with the rifle; and had never witnessed but one duel: that in which he had acted as the second of D. W. Perley, in Stockton, in 1850.

From Oakland, Thursday, September 8th, Judge Terry addressed to Mr. Broderick a letter, by the hands of his chosen friend, Calhoun Benham, of which this is a copy:

OAKLAND, September 8th, 1859.

HON. D. C. BRODERICK:

Sir: Some two months since, at the public table of the International Hotel in San Francisco, you saw fit to indulge in certain remarks concerning me, which were offensive in their nature. Before I had heard of the circumstance, your note of the 20th of June, addressed to Mr. D. W. Perley, in which you declared that you would not respond to any call of a personal character during the political canvass just concluded, had been published.

I have, therefore, not been permitted to take any notice of those remarks until the expiration of the limit fixed by yourself. I now take the earliest opportunity to require of you a retraction of those remarks. This note will be handed to you by my friend, Calhoun Benham, Esq., who is acquainted with its contents, and will receive your reply.

D. S. TERRY

Mr. Benham waited upon Mr. Broderick, delivered the above note, and had brief conversation with him in respect to it. Mr. Broderick remarked that he would give the matter attention the next day. Mr. Benham suggested the propriety or urgency of quicker action. And after retiring from Mr. Broderick's presence, addressed to him this note:

SAN FRANCISCO, September 8th, 1859.

HON. D. C. BRODERICK:

Sir: Should you have occasion to communicate with me sooner than the time agreed upon between us, I will be found at the Metropolitan Hotel. I omitted to leave my address this morning.

Very respectfully, your obedient servant,

CALHOUN BENHAM.

Mr. Broderick's response to Judge Terry's note was in this form:

SAN FRANCISCO, September 8th, 1859

HON. D. S. TERRY:

Sir: Your note of September 8th reached me through the hands of Mr. Calhoun Benham. The remarks used by me in the conversation referred to may be a subject of future misrepresentation: and, for obvious reasons, I have to desire you to state what were the remarks that you designate in your note as offensive, and of which you require of me a retraction.

I remain, etc.,

D. C. BRODERICK.

This note was a surprise to Judge Terry. The conversation with Perley at the International Hotel, in which Senator Broderick had uttered the offensive language concern-

ing Judge Terry, had been published broadcast over the State, and Mr. Broderick himself could not be ignorant of it. He had impugned the honor and impeached the judicial integrity of Judge Terry; and the extraordinary utterance, from so high a source, had been made the subject of common talk everywhere. Judge Terry had expected a different answer. That which he sought was simply the retraction of the offensive language; a retraction such as honorable men feel bound to make for language used in an impulsive moment, under the influence of temporary passion, or when unduly aggravated to sudden angry outburst; a retraction which many brave and honorable men hasten themselves to offer, when sober reflection and cool judgment return, and their better nature prompts them to make proper amend for words that cannot be honorably justified or persisted in. And it is now known, upon the statement of some of Mr. Broderick's most intimate friends, who were then in confidential intercourse with him, called in to discuss and give counsel upon the delicate matter at issue, that Mr. Broderick's own impulses and sentiments were in accord with theirs, in viewing the situation in this light. One or two of these true friends insisted that the requirement of Judge Terry was simply fair and proper: no more than Mr. Broderick himself would demand, were their positions changed. They protested against the draft of the note, as it was at last sent to Judge Terry; for they foresaw that it might shut the door to any accommodation of the difficulty, and lead to a hostile meeting, for which there was no just occasion; while the onus of such a meeting would rest upon the willful refusal of a proper and strictly honorable retraction, or disavowal of intention to offend, which must be interpreted as a determination to adhere to the offensive language and all that it implied or conveyed. At that precise point the difficulty ought to be adjusted, these ardent friends protested, as it was the precise point at which it could most readily, properly, and, with mutual assurances of former respect and good feeling to restore

past friendly relations between the two, be brought to amicable adjustment.

Unfortunately, these wise and earnest counsels did not prevail. In the confidence of Mr. Broderick, at that time, and in constant intimate intercourse with him, were other men of less prudent and more aggressive nature. They were unquestionably devoted to him; and some of them were ready to peril even life in his cause, if need be; but they held human life, even his, at the reckless rate in which too many had valued it in early California days, when it was considered braver to persist in a wrong, to the extremity of the "field of honor," than it was to show the higher courage and purer honor which requires just and honorable redress for injuries or affronts, which are sometimes more the result of circumstances and hasty action, or intemperate speech, than the disposition to harm, or the intention to offend. These imprudent and hot-tempered friends very well knew the great expertness and extraordinary accuracy of Mr. Broderick's pistol-practice in the shooting-galleries; and they were also aware of his fierce courage. They could not but have known, furthermore, of the irrepressible nervousness, which the prodigious mental and physical strain of the campaign, superadded to the enormous drafts upon his system, which his amazing struggle for the senatorship had occasioned; that struggle which had continued incessantly through five or six weary and most anxious years, and which had visibly wrought its ill effects upon his once robust constitution. A nervousness in no respect the creature of fear; but the consequence, solely, of extorting from nature that much beyond her power to healthfully yield or healthfully withstand. They felt absolute confidence in his coming from any hostile encounter the victor, instead of the victim; and, besides this questionable assurance, they were in great degree actuated in forcing the issue—as they did finally force it—by the determination to prove to the "chivalry" that Broderick, as the acknowledged chief and boldest champion of the Northern element, was as ready

to fight as the bravest of the Southern leaders. Allowing himself to be swayed by these rash and reckless advisers, Mr. Broderick at last concluded to reply to Judge Terry's note as he did. It was followed by this:

SAN FRANCISCO, September 9th, 1859

Hon. D. C. BROEDERICK:

Sir: In reply to your note of this date, I have to say, that the offensive remarks to which I alluded in my communication of yesterday are as follows: "I have heretofore considered and spoken of him [myself] as the only honest man on the Supreme Court bench; but I now take it all back"—thus, by implication, reflecting on my personal and official integrity. This is the substance of your remarks, as reported to me; the precise terms, however, in which such an implication was conveyed are not important to the question. You yourself can best remember the terms in which you spoke of me, on the occasion referred to. What I require is, the retraction of any words which were used calculated to reflect on my character as an officer or a gentleman.

I remain your obedient servant,

D. S. TERRY.

In this second note of Judge Terry's is apparent the disposition to refrain from pressing the difficulty to a hostile conclusion. He waived, or did not appear to heed, the patent fact that Mr. Broderick must himself have been perfectly aware, at the time he addressed his note of inquiry, as to the language deemed offensive by Judge Terry, just what that language was, and its nature and manifest meaning; and he thus presented still another opportunity to Mr. Broderick for the honorable retraction required, or such disavowal of any intention to offend or impugn the integrity of Judge Terry, as would have closed the correspondence, and led to mutual friendly explanation and renewed amicable relations. But this is the spirit in which it was received and answered:

FRIDAY EVENING, 9th September.

Hon. D. S. TERRY:

Sir: Yours of this date has been received. The remarks made by me were occasioned by certain offensive allusions of yours concerning me, made in the Convention at Sacramento, reported in the *Union* of June 25th. Upon the topic alluded to in your note of this date, my language, so far as my recollection serves me, was as follows: During Judge Terry's incarceration by the Vigilance Committee I paid $200 a week to support a newspaper in his (your) defense. I have also stated heretofore that I considered him (Judge Terry) the only honest man on the Supreme Bench; but I take it all back. You are the best judge as to whether this language affords good ground of offense.

I remain, etc.,

D. C. BRODERICK.

Upon the authority of gentlemen who were then the devoted friends of Mr. Broderick, and who still honor his memory, it is here stated that in the drafting of the above second note from him to Judge Terry, the same prudent and wise counsel was presented and urged by those who

wished to prevent a hostile meeting. But again their good counsel was overborne by the persistence of the others, who argued that "the fight had got to come some time, and it might as well come now"; and these malignant advisers again and conclusively prevailed. The note left Judge Terry no other alternative except craven withdrawal from a demand which he was justified in, a relinquishment of his claim for apology or redress, or the course which he did pursue, to this purpose:

SAN FRANCISCO, September 9th, 1859.

Hon. D. C. BRODERICK:

Sir: Some months ago you used language concerning me, offensive in its nature. I waited the lapse of a period of time fixed by yourself before I asked reparation therefor at your hands. You replied, asking specifications of the language used which I regarded as offensive. In another letter I gave you the specification and reiterated my demand for a retraction. To this last letter you reply, acknowledging the use of the offensive language imputed to you, and not making the retraction required. This course on your part leaves me no other alternative but to demand the satisfaction usual among gentlemen, which I accordingly do. Mr. Benham will make the necessary arrangements.

Your obedient servant,

D. S. TERRY.

Senator Broderick had gone too far to recede with honor, or to save himself from the charge of cowardice, had he refused to comply with the inexorable conclusion; and even death to him was always preferable to the bare suspicion of a craven spirit. His pride was above his love of life in that respect. Accordingly, as the closing letter of the series, came this:

SAN FRANCISCO, September 10th, 1859.

Hon. D. S. TERRY:

Sir: Your note of the above date has been received at one o'clock A.M., September 10th. In response to the same, I will refer you to my friend, Hon. J. C. McKibben, who will make the necessary arrangement demanded in your letter.

I remain, etc.,

D. C. BRODERICK.

There was nothing now left but to prepare for the meeting, and to proceed with it. Colonel Thomas Hays, formerly of New York City, and one of Broderick's earliest supporters in San Francisco, was invited to assist with Calhoun Benham on behalf of Judge Terry; and ex-sheriff David Colton, of Siskiyou, was similarly chosen on behalf of Mr. Broderick. The four met for the purpose, and, after due deliberation, Mr. Broderick being the challenged party, and therefore entitled to name the style of weapons and order the terms of combat, the following was presented by his seconds:

"1st. Principals to be attended by two seconds and a surgeon each; also by a person to load the weapons. This article not to exclude the drivers of the vehicles. If other parties obtrude, the time and place may be changed at the instance of either party.

"2nd. Place of meeting, on the farm adjoining the Lake House ranch. The road to the farm-house leaves the old Lake House road, where you strike the first fence of the Lake House property, about a mile before you reach the Lake House. There you take a road to the left, which brings you to the farm-house, on the upper end of the lake (Laguna Merced), occupied by William Higgins. This is the general neighborhood; the precise spot to be determined when the parties meet.

"3rd. Weapons, dueling-pistols.

"4th. Distance, ten paces; parties facing each other; pistols to be held with the muzzles vertically downwards.

"5th. Word to be given as follows, to wit: The inquiry shall first be made, 'Gentlemen, are you ready?' Upon each party replying 'Ready,' the word 'Fire' shall be given, to be followed by the words 'One, two.' Neither party to raise his pistol before the word 'Fire,' nor to discharge it after the word 'two.' The intervals between the words 'Fire, one, two,' to be exemplified by the party winning the word, as near as may be.

"6th. The weapons to be loaded on the ground in the presence of a second of each party.

"7th. Choice of position and the giving of the word to be determined by chance—throwing up a coin, as usual.

"8th. Choice of the two weapons to be determined by chance, as in article 7th.

"9th. Choice of the respective weapons of parties to be determined on the ground, by throwing up a coin, as usual; that is to say, each party bringing their pistols, and the pair to be used to be determined by chance, as in article 7th.

"Time, Monday, 12th September, 1859, at 5½ o'clock A.M."

The seconds of Judge Terry protested against the place selected for the meeting, and also against the unprecedented brevity of the firing-time, as proposed by the seconds of Mr. Broderick, on which correspondence ensued, in this form and with this result:

"On the part of Judge Terry, it is protested against the word being stopped short of the word 'three,' as unusual and unwarrantable; also against the place of meeting being either in San Francisco or San Mateo County.

"Mr. Broderick's seconds answer the protest in regard to the parties being restrained by the word 'two,' that it is neither unusual nor unwarrantable, and has the feature of humanity; also, that no possible advantage can accrue to their principal by fixing the place at a remote and isolated spot, where they will not be intruded upon.

"Article numbered 5, among the articles setting forth the terms upon which the parties are to have their meeting, is objected to, because the word 'three,' to follow 'two,' is not to be called as the word after which neither party is to fire upon his adversary; and it is propounded to the seconds of Mr. Broderick, on behalf of Judge Terry, whether or not such article (numbered 5) is insisted upon as a *sine qua non* to their meeting. A categorical answer in writing is requested.

"Article numbered 5, among the articles setting forth the terms upon which the parties are to have their meeting, being objected to, because the word 'three,' to follow 'two,' is not to be called as the word after which neither party is to fire upon his adversary, and it being propounded to the seconds of Mr. Broderick, on behalf of Judge Terry, whether or not said article (numbered 5) is insisted upon as a *sine qua non* to their meeting, and a categorical answer in writing being requested of Mr. Broderick, it is responded by his seconds, that, having in the terms asked nothing but what their principal is entitled to, and the terms not subjecting their adversary to any disadvantage, the request is deemed improper, it being always reserved to them, the friends of Judge Terry, to accept or decline the proposed terms."

The arrangement to fire stopping at the word "two" was without precedent in modern dueling. The uniform rule had been to give the word, "Fire—one—two—three," and to discharge the weapons at any time between the words "one" and "three"; and this had been the invariable custom in California, in all affairs of the kind, according to the code.

The change was a surprise to Judge Terry's friends and to himself. It was the opinion of his seconds that he was not obligated to submit to the extraordinary requirement; but he waived the disadvantage, as he felt that to insist upon the rule would subject him to the odium of having sought an apparent slight pretence to back out of an affair from which he expected the worst, through the superior skill of his antagonist. The seconds of Mr. Broderick were aware of his consummate marksmanship in pistol-practice, and he was accustomed to fire with uncommon readiness, at a moment's glance at the target. Hence they so arranged for the word, and mode of firing, and persisted in that arrangement. It was a material advantage, all other things being equal, especially in a case where the adversary was accustomed to ordinary deliberation in the discharge of his weapon. And so the terms stood, as the seconds of Mr. Broderick had exacted.

In preparing for the affair, Judge Terry had procured, at Stockton, the dueling-pistols owned by Jo Beard, ex-clerk of the Supreme Court, then in the possession of Dr. Dan. Aylette. They had been purchased many years before, in Paris, by Beard's father, a distinguished citizen of New Orleans, and presented by him to his son, who brought them to California. They had been used several times in affairs of honor, and were so exactly alike in every respect, that no difference had ever been discovered in their shooting qualities. They had hair-triggers, evenly and equally adjusted. When Judge Terry received them from Dr. Aylette, he tried them with two shots. He made what are termed "line shots," but hit each time below the target. He tried them no more, but returned them to their case; and Dr. Aylette took them afterwards to Oakland. On Aylette's arrival there, the case of pistols was given in the charge of Mr. John Freaner, formerly deputy sheriff under Jack Hays, and by him kept in safe custody until the moment the pistols were required, to be taken across to San Francisco for the duel. Judge Terry neither saw them, nor practiced with any other pistols, from the time he surrendered the case

back to Dr. Aylette at Stockton, until the weapon selected for his use by his seconds was placed in his hands, on the morning of the duel, when Mr. Broderick was also handed the weapon he was to use.

The time appointed for the duel and all the preliminaries were agreed upon during Saturday, September 10th. The duel was fixed for Monday morning, the 12th. Notwithstanding the arrangements had been made to bring off the meeting, a number of the friends of Mr. Broderick, together with some of Judge Terry's friends, and others, who stood in mutually friendly relations to each of the two, undertook still to affect a peaceable settlement of the difficulty. Among these gentlemen, Edmund Randolph, A. P. Crittenden, and John A. Monroe bore leading part. John Nugent, the noted *Herald* editor, likewise exerted his influence. David Mahoney endeavored to prevent the meeting. But these efforts proved unavailing. To one of them, who had pressed his way to the place where Mr. Broderick was kept concealed to prevent arrest, and insisted upon an interview with him, Colonel A. J. Butler, who was doing duty at the door as sentinel and keeper, remarked, as he denied the admission so earnestly implored and insisted upon by the friend: "It is no use. You are too late. The fight has got to come, and this is the best time for it. Broderick never had a better chance, and he isn't going to get hurt. He can hit the size of a ten-cent piece at his distance every time. These 'Chivs' have got to learn that there is one man they can't back down." It was in similar spirit that others, on the same noble mission, were denied access to Mr. Broderick, and admonished to cease their endeavors. And it is hardly too much to say, that, had these really true friends managed to get the ear of Mr. Broderick, the unfortunate meeting would not have taken place. It was on his own altar, mainly by his own high priests, that he was sacrificed. In fact, he felt himself that no sacrifice on his own part was likely; for he remarked to his intimate friend John White, before proceeding to the field on the first day, in response

to White's remark that he hoped him safe deliverance, "Don't you fear, John; I can shoot twice to Terry's once: beat him shooting every time." It was this supreme confidence in his own expertness with pistols which inspired him from first to last.

Dr. Dan. Aylette was engaged to attend Judge Terry upon the field, as surgeon, and he invited Dr. William Hammond to accompany him. Dr. Hammond had never, up to that time, seen either of the principals. They were alike entire strangers to him; and, as he had never engaged in political life or participated in party matters, he had no bias or feeling, one way or the other. He was expected simply and solely to officiate as surgeon in case his services should be required. Dr. Loehr, editor of the German anti-Lecompton paper in San Francisco, was engaged as surgeon for Mr. Broderick.

The day and night before the meeting on Monday morning, Judge Terry was housed at the residence of Colonel Thomas Hays. Mr. Broderick was amply cared for at the house of a devoted friend near the place of meeting. At the appointed hour, the parties were on the ground; but just as the seconds were about to proceed with the affair, Chief of Police Burke, fortified also with the legal papers from the authorities of San Mateo, in which county the field was situated, just across the San Francisco line, advanced from a corner of the field and arrested the principals, serving each with a writ to answer in court that day. The parties submitted to the authority of the law, and that day appeared before Judge Coon, who had been chosen to the place upon the People's ticket, nominated by the Vigilance Committee element. Colonel E. D. Baker appeared on behalf of Mr. Broderick, and the prosecuting attorney insisted that the parties should give bonds to refrain from further attempt to violate the law or break the peace. Judge Broanan appeared upon the opposing side. Judge Coon decided that no breach of the peace had been committed, and discharged the defendants. Dr. Aylette, satis-

fied in his own mind that the affair was stopped for the present, returned that afternoon by the Stockton boat, to his home.

That night, however, as the parties were free to go on and conclude the matter, it was arranged that the meeting should come off the next morning, at the same place and hour. Dr. Hammond was then engaged to attend on the field, as surgeon for Judge Terry. At the appointed hour the parties again reached the ground. The spectators numbered about eighty, having made their way thither in all manner of vehicles, on horseback and afoot. In choosing for the customary points of advantage, agreeably to the articles, by the tossing up of a half-dollar, the seconds of Judge Terry won for him the choice of weapons; and Mr. Broderick's seconds won the choice of ground and the giving of the word—a decided advantage, inasmuch as that had been the disputed point, the manner of giving the word as insisted upon by Mr. Broderick's seconds. By mutual agreement, "Natchez," the noted gunsmith of the city, was employed as armorer. The seconds of Mr. Broderick had brought the pair of pistols he preferred, just as Terry's seconds had with them the Jo Beard pistols of his choice—the pair they then selected for the duel.

The two principals first took station on the field at random, each with his friends near about him. They showed equal nerve, but Judge Terry was apparently more composed. He closely eyed his antagonist. Mr. Broderick once directed his glance toward Terry, looked at him squarely, and then averted his eyes, as if not caring to continue it. A singular difference of conduct was noted in the surgeons. Dr. Hammond had come upon the field, addressed and shaken hands with Judge Terry, and then thrown himself upon the ground, with his overcoat underneath him. There was nothing visible about him to indicate his profession, in the way of instruments. Dr. Loehr, on the contrary, had brought with him a large sack, containing surgical instruments and a lot of bandaging stuff,

and from the mouth of this sack protruded a long saw—the whole paraphernalia suggestive of desperate operations in surgery. He sought occasion to converse with Mr. Broderick, while the latter walked to and fro awaiting the call of his seconds, and all the time he carried, or partly dragged, this horrid-looking sack, with its rattle of instruments, its ugly protruding saw, and its plethora of linen rags for bandages. It demonstrated the remarkable self-possession of Mr. Broderick, that he paced the ground with his surgeon during their conversation with such splendid equanimity of manner. It was a raw morning, and the two chief actors in the tragic scene kept on their overcoats while they could. It was noticeable that Mr. Broderick had drawn his soft felt hat down low over his eyes, and that occasionally he pulled the rim still lower; while Judge Terry adopted the opposite mode of wearing his hat, of similar kind, far off his forehead, and back upon his head. Still, Mr. Broderick seemed as one confident of his own ability to bravely sustain himself in every respect, and determined upon no child's play. Conscious of his wonderful skill in the weapons his seconds had stipulated for the encounter, he evidently felt certain of hitting his mark, for his opponent was even of larger frame than himself. Of this skill, the *Morning Call* of that very morning had published this report, and it had been shown to his antagonist:

"A Dead Shot.

"It is generally understood that Judge Terry is a first-rate shot; but it is doubtful whether he is as unerring with the pistol as Senator Broderick. This gentleman, recently, in practicing in a gallery, fired two hundred shots at the usual distance, and plumped the mark every time. As he is also a man of firmer nerve than his opponent, we may look this morning for unpleasant news from the field."

This was manifestly the general opinion and expectation of Mr. Broderick's friends and admirers; for they had knowledge of his skill in shooting, and they all knew his indomitable pluck. Judge Terry had himself been apprised of Broderick's skill, and he was duly conscious of his own disadvantage in that respect, especially as the rapid form of aiming and firing enforced by Mr. Broderick's seconds added to his risk. But he seemed steeled for the terrible

ordeal, and gave no sign of nervousness while the preliminaries were in progress.

At length the seconds invited the principals to their allotted stations. As Mr. Broderick's seconds had won the choice of ground, they secured for him the due advantage. The sun was just rising above the neighboring low hills. Mr. Broderick was placed with his back to the sun, Judge Terry facing it. The pistols were carefully examined by the seconds, then loaded—Mr. Broderick's by the armorer, and Judge Terry's by his friend Sam. H. Brooks—and handed to the principals. Judge Terry took his, held it behind him for a moment, and then rested it on his left arm in front. Mr. Broderick critically examined his pistol, and took pains deliberately to adjust it to his grip. Apparently satisfied, at length, he attentively measured with keen look the ground between his adversary and himself, both ways, to and from him. The two had cast off their overcoats, and were quite similarly dressed, in full black suits, with frock-coats buttoned across the breast, and without shirt-collars. Mr. Benham examined Mr. Broderick's person to see that he wore nothing to stop or glance a bullet; Colonel McKibben similarly examined Judge Terry. Mr. Broderick had just before handed his watch and the money in his pockets to McKibben, and Judge Terry had likewise passed the contents of his pockets to Benham. The word, as it was to be given, was exemplified by Mr. Colton, and repeated by Mr. Benham. The seconds then took their appropriate places. Judge Terry stood erect and firm, but in easy attitude, with his body accurately sideways to his antagonist, his pistol-arm hanging naturally, close to his person, with apparent readiness for full play to every muscle, his pistol in exact vertical position, and his legs precisely in line. His look was directed full toward Mr. Broderick, and his facial expression was of imperturbable composure, alive to the serious matter in hand.

Mr. Broderick's whole frame revealed the tremendous power of his determination, and his face, pallid from the

wasted condition of his system, incident to the exhaustion of the fatiguing and terrific campaign he had so recently concluded, showed the prodigious force of his will in the mastery of his shattered nerves, now held as in wonderful strain of rigidity. There was not the tremor of a fiber from crown to sole. But his rigor of body was so severe that he had not easy command of motion, or essential play of action of trunk or limb. He stood as a marvelous complication of mortal clay and nerve so delicately and yet so stoutly fashioned that, while no deadly peril could affect it, no external force could shock it, the slightest internal disturbance would disconcert it all. It was observed by the seconds of Judge Terry, that Mr. Broderick held his pistol, not vertically, as the articles required, but pointed outward in obtuse angle, and to this defect Mr. Benham called the attention of Colonel McKibben, who immediately went to Mr. Broderick's side to rectify the wrong. His rigor of frame was so intense that, in the effort to adjust his pistol to the required position, he was obliged to use his left hand to bring his right arm into proper form; and in the effort he also so swerved his whole body that his right leg was pressed out of place, downward and forward, out of line with the left leg, and his chest was thrown out and quartering toward his antagonist, so as to present a larger surface for the chance of a shot aimed at him. He held his pistol in vise-like grip; and his wrist, instead of being in condition for ease of motion, was as an iron bolt, to move only with and as rigidly as the arm. He seemed the impersonation of that order of courage which faces death without terror, which prefers doom to the reproach of fear. Like Wellington's intrepid soldier, he was conscious of his peril, but braved it.

At nearly 7 o'clock that fated Tuesday morning, every other procedure of the awful scene having been adequately performed according to the articles, Mr. David Colton, the second of Mr. Broderick, upon whom the painful duty had been imposed, put the dread question, preliminary to the

"word," "Gentlemen, are you ready?" Instantly the response came from Judge Terry, "Ready," in firm, natural tone of voice, and without play of feature or movement of muscle. Mr. Broderick did not respond at once, but again occupied a few moments in adjusting his pistol. This done, evidently to his satisfaction, he spoke the word "Ready," accompanied by a gesture and a nod, as of assent to Mr. Colton. Then came the "word," "Fire—one—two." The pause between the words was as that between the striking of the hours of "the cathedral clock," as a critical observer described it. Almost at the "one," Mr. Broderick fired. The ball from his pistol entered the ground just nine feet from where he stood, in a true line with his antagonist. Judge Terry fired before "two" had been uttered. A slight show of dust upon the right lapel of Mr. Broderick's buttoned coat gave token where the ball had struck. In a moment Mr. Broderick's right arm was raised nearly in line from his shoulder and extended at full length; the left arm simultaneously moved in similar manner. In his right hand he still gripped his pistol. A visible shuddering of the body was instantly preceptible, then a violent contraction of the right arm, a relaxation of the fingers of the right hand, from which the pistol dropped to the ground. A heavy convulsion shook his quivering form, he turned toward the left, his head drooped, his body sunk, his left knee first gave away, then the right, and in a moment he was half-prostrate on the sod, his left arm supporting him from falling prone. His seconds rushed to his aid. His surgeon was with him in a flash, but it was soon manifest that he had been somewhat confused by the scene. Judge Terry stood with folded arms in his appointed place, awaiting the requirements of the situation. His seconds went to him at once, and he remarked to Mr. Benham that his ball had "hit too far out" to be mortal; he believed it to be no more than a flesh wound, over the chest, and not dangerous, for no blood had flowed from Mr. Broderick's mouth, as is the case in instances where the lungs are penetrated. Satisfied,

however, that another shot would not be required by Mr. Broderick's seconds, Terry then left the ground.

From his place on the sward, Dr. Hammond had sharply observed all that had occurred. He did not think that Mr. Broderick was dangerously wounded, felt confident that the hurt was not mortal; but he saw the perturbation of Dr. Loehr, and at once suggested to Mr. Benham the propriety of the proffer of his own services to Mr. Broderick. At that instant, as Mr. Benham was advancing to make the proffer, Colonel McKibben came forward to request Dr. Hammond's assistance, and stated that it was also the desire of Dr. Loehr. Dr. Hammond immediately went to Mr. Broderick's side, and assisted in the examination. Mr. Broderick conversed with him about the nature of the wound, in a calm manner, and without apparent dread of the consequences. As Dr. Loehr had omitted to bring restoratives or bandages suitable for the purpose, Dr. Hammond furnished Mr. Broderick with his flask of brandy, and put about him the chest-bandage necessary in a wound of the kind. And then, after courteous exchanges on each side, between Mr. Broderick and himself, the seconds and the surgeon, Dr. Hammond withdrew, more assured than ever that the wound was not likely to prove mortal, as less than a tablespoonful of blood had been expectorated, and there was no indication of internal hemorrhage—good or hopeful tokens that the lungs had received no serious injury.

Mr. Broderick was soon conveyed to the house of his friend, Leonidas Haskell, at Black Point. Judge Terry rode into San Francisco, took a boat, held ready for him by Michael Hays, brother of Colonel Thomas Hays, and was taken directly to Oakland, where he was met by John Freaner, who informed him that the report in town was, that Broderick had been killed. Terry assured him it was not the fact; that his ball had struck him "too far out," as he had first expressed it on the field. He also said to Mr. Freaner, that, had a moment's further deliberation been allowed him in the firing, he should have shot so as to in-

flict no injury whatever; but the information he had received of Broderick's amazing skill in shooting, supported by the paragraph statement in the *Call* that morning (copied in this chapter), and the apparent determination of Mr. Broderick himself, on the field, impelled him, in consideration for his own life, to shoot so as to prevent the risk of a second shot from his antagonist. From Oakland he proceeded homeward, and subsequently surrendered himself to the authorities, to answer for the deed; thence to pass acquitted of criminal intention in what he had done, but to suffer for it through many years, in the ways hardest for a man of high spirit to suffer and endure.

CHAPTER XXVII.

BRODERICK'S DEATH — THE INQUEST — THE OBSEQUIES — PUBLIC SENTIMENT—THE CONCLUSION.

Senator Broderick received his wound, Tuesday morning, September 10th, at about 7 o'clock. It was not considered mortal at the time. Subsequent examination by the surgeons developed its dangerous nature. He had complained of a pain in his left lung to Dr. Hammond, on the tragic field; but that gentleman and Dr. Loehr alike believed it not serious. All the indications were to the contrary. Closer examination, under circumstances better adapted to the occasion, demonstrated the error of this belief. Still, during Wednesday and Thursday, there were hopes of his recovery. These were dissipated Thursday night; and at 9:20 o'clock, the morning of Friday, the 16th of the same month, he died. Fated and fatal Friday to him. It was on a Friday, also, something more than two years before, he had been chosen a Senator of the United States, the pinnacle of his life's ambition, the consummation of his many years of struggle and study and toil, such as no other mortal ever endured or ever triumphed over. Now he lay dead, in his fortieth year, in the full vigor of life's prime, in the height of his own marked career, and upon the very verge of the yet higher and yet grander field he was so likely to be called, in making his name still more famous, and building for himself a monument more enduring than stone, prouder than his own prideful and aspiring spirit had in earlier years ever dared to soar in its ambitious flights, limitless in its world-wide scope.

On the afternoon of the following day, the coroner held inquest upon the body. Doctors Holman and Bertody were appointed to the duty of the autopsy. It is enough to state, that the ball had pierced the lungs, and no mortal power could have saved the patient from death. It had been reported that there was a perceptible difference in

the hair-triggers of the pistols; and that the one left for Mr. Broderick to use was much more delicate to the touch than the pistol used by Judge Terry; and this was made a subject of special inquiry. Lagoarde — "Natchez" — the armorer, stated it to be fact, in his examination. Colonel McKibben, who had so critically examined the pistols on the field, and even tried the one used by Mr. Broderick, testified positively that there was no appreciable difference in the two; that the weapons were, in every respect, similar. It was the disposition of "Natchez" to find fault with any other pistols than his own. And after the inquest, there was published, in connection with it, this, which appeared in the San Francisco *News*, Mr. Broderick's campaign organ:

"We are requested by Mr. McKibben and General Colton (the seconds of Mr. Broderick) to state that Mr. Lagoarde, the gunsmith, did not tell them when on the ground, as he testified at the inquest, that there was any difference between the pistols used by Mr. Broderick and Judge Terry; and, that so far as their own careful examination of the weapons was concerned, there was no perceptible difference in the tightness of the triggers."

The verdict of the coroner's jury was in accordance with the evidence and the facts.

The obsequies were solemnized on Sunday, September 18th, in a manner never before witnessed on any similar occasion. Before his death, Mr. Broderick had received the sacraments of the dying in the Roman Catholic Church, although he had not, during his life, been a communicant of that church, and the funeral was arranged from the Union Hotel, so long Mr. Broderick's headquarters. A platform had been erected in the Plaza opposite, and there Colonel E. D. Baker delivered an eloquent oration, befitting the sad occasion. Among the pall-bearers were Judge McCorkle, Judge Ogden Hoffman, General Vallejo, ex-Governor McDougal, Judge Currey, Jo C. Palmer, D. J. Oliver, Ben. S. Lippincott, John A. Monroe, Judge Shaw, Alex. Campbell, Frank Soule, E. L. Beard, John O'Meara, Edmund Randolph, Wilson Flint, S. M. Dwinelle, John White, and his former fellow-firemen of New York, George Green, F. D. Kohler, and Wm. McKibben. John Middleton was grand marshal of the procession. The Rev. Fathers Hugh Gal-

lagher and Maraschi were the officiating clergymen at the ceremonies. A hundred and fifty, comprising many of the most distinguished citizens, served as chief mourners, conspicuous among whom were A. P. Crittenden, John Conness, Colonel Jo C. McKibben, General Colton, Colonel A. J. Butler, C. Stagg, Elliot J. Moore, John McGlynn, Lucien Herman, L. Shearer, P. Crowley, Judge Crane, G. W. Colby, Marcus Boruck, Wm. M. Lent, Wm. F. Williamson, Thos. Maguire, Harry H. Byrne, and Charles Cook. Under the marshalship of David Scannell, the whole fire department marched. The Society of California Pioneers attended in strong force. Other societies, citizens on foot, and more in a long line of carriages and every kind of vehicle, participated. The remains were entombed in Lone Mountain Cemetery. The day after the funeral the *News* closed an editorial on the subject with this remark:

"It is said that Napoleon should have died at Waterloo. Mr. Broderick died not on an inappropriate field. 'The blood of the martyrs is the seed of the church'; and we mistake greatly, if the sacrifice of Mr. Broderick's life will not be fruitful of revolutionary results in the popular mind."

The sentiment and prediction were not wasted on barren soil. The mourned dead was utilized to subserve the purposes of the living, who had professed most to honor and to admire him in the life. By thousands his death was sincerely and passionately mourned. The whole community lamented it. The State and local authorities, the courts, the various societies and organizations, expressed their grief in resolutions of sorrow, and in tributes to his memory proclaimed their admiration for his character. The Republicans, in public meeting, and the party he had so lately led with unmatched vigor, alike deplored his death; but, in alluding to the manner of it, his own organ, the *News*, editorially made this remfarkable statement:

"The day after the election he [Broderick] waited in hourly expectation of receiving a series of challenges to mortal combat from his leading political opponents; and the first which reached him was from Judge Terry. This he did not regret, since, as he was told, D. S. Terry enjoyed the reputation of being the most expert shot in the State, was the representative of the most desperate 'chivalry,' and was, perhaps, his most extreme political opponent in the State."

After the funeral came a hot cry for vengeance, and vehement appeals and demands upon the authorities, with

efforts to rouse popular indignation. Chief Justice Terry had resigned his station before he engaged in the duel; and now there were clamors for his blood in atonement for Broderick's death. The *Call*, which had, the morning of the duel, composedly intimated that Terry would come off worsted, the next day proclaimed, in flaming head-line, that there was "Another Victim to the Bloody Code!" The *Times*, edited by Charles A. Washburn, who had received a flesh-wound in his duel with Frank Washington, became furious for the "extremity of the law" to be executed upon Terry. The *News*, with John White as editor, frantically labored to arouse the worst passions of the multitude; and other papers in the cities and throughout the interior counties were as desperately bent to provoke trouble, if not bloodshed. On his departure from San Francisco, accompanied by Congressman Scott, then re-elected, Dr. Gwin had flouted in his face a large canvas frame, on which was painted a portrait of Mr. Broderick, and this: "It is the will of the people that the murderers of Broderick do not return again to California"; and below were also these words, attributed to Mr. Broderick: "They have killed me because I was opposed to the extension of slavery, and a corrupt administration." And at the head of the columns of the anti-Lecompton organs was printed these reported solemn injunctions of Broderick to his friends: "If I die, protect my honor." "I die for a principle."

Against this overwhelming flood of passion and fury, the administration papers opposed their best efforts, with comparatively small avail. Anger and vindictiveness ruled, and reason was feeble to withstand the onset. The *National*, edited by Frank Washington and George Pen. Johnston, and the *Standard*, controlled by Judge Charles T. Botts, were the leading organs of the administration, and all that it lie within them to do was done; but the tide or the torrent was plainly setting or forming the other way. The victory in the late campaign had been theirs by great odds; they had triumphed over Broderick's forces and the Republicans

combined, after the most exciting and most acrimonious campaign ever waged in California. And yet, already, in a short week or so, with Broderick dead in his grave, there were deep-down indications that the cause for which he had so desperately battled, in which he had been so mortifyingly defeated, would in the very next year win a victory unparalleled in American politics. While he lived, his own cause, often in the minority, had rarely ever accomplished more than a partial triumph. He alone had succeeded as he wished; and it was by his own irrepressible energy and indomitable perseverance that he had succeeded. He could not lift his party to his own height, nor lead it whither he could force his own way. But now, no longer numbered among the living, resting forever with the unnumbered dead, his blood become indeed the seed of his worldly church; there was in it, conjoined and merged with that of others in a few months to flow, the vitalizing seed and the quick, resistless power to divide and demoralize the party of his earlier days, to suddenly rear up another which should radically overturn and scatter it in confusion and rout; and then to excite disastrous internecine war, out from which the end is not yet.

Thus the living, active Broderick failed and fell at last, only as, his friends felt, to take from death its sting, from the grave its victory, and in the spirit, which he yielded not as he fell, to stalk, as the man himself would have eagerly given all but life itself could he have so stalked for bare one hour.

It was in the manner we have described in these pages that Broderick lived; and the manner of his death is told. He was the last of his family line; he had been from his early manhood the sole survivor of his family and kindred; and now there was left only his name and the fame he had acquired to perpetuate. He had been the architect of his own fortunes, the sole genius of his own wondrous fabric of the lifetime he had made so dazzling and yet so calamitous. He had risen by his own exertions; he had schooled and

trained and educated himself to be superior to every emergency, and the peer of the most powerful in the land; and it was by his own prodigious force of character that he had lifted himself out of the lowly sphere and obscurity to which he had been born and bred, and pushed and climbed his way to the exalted station from which his untimely death had so unexpectedly plucked him. He had encountered and overborne the mightiest in his adopted State; the Great Conqueror had proved his only conqueror. Undismayed, persistent, resolute, he had stubbornly adhered to the pursuit of his life's ambition until he had attained it, and not until he had then humbled the most formidable and most rancorous of his opponents, by "pulling out his claws and putting his brand upon him," were his pride and his vengeance alike satisfied. Nor even with this great triumph of his life, so his most intimate friends had reason to believe, was his towering ambition satisfied; for it was insatiable while there remained a loftier height to climb, a grander destiny beyond. It was inappropriate, they thought, and still think, to contrast him with Napoleon, and his fate with Waterloo. More appropriate, they urged, would have been the comparison with Wolfe, who fell at the moment of his greatest victory upon the heights his valorous foe had counted inaccessible. Yet Broderick did not so fall, however much his admirers may have believed or do still believe, that, had he survived, his most glorious victory was yet to come, to place him upon the very pinnacle of his country's loftiest height, in position which he would have made one of almost supreme control. He had lived his destiny.

The son of a poor and humble Irish stone-cutter, the support in his youth of a bereft and needy widow mother and younger brother; then soon the sole survivor of his family line, and without kindred on the face of the earth; forced to brave the battle of life alone, his first venture on his own account was in a vocation rarely accounted honorable, too often made degrading. Yet he rose in it until he had risen above it. He had been bred to indigence and rough life;

but in his fireman days he was inspired with the ambition of leadership, and was restive under a rivalry which he could not master. He made his name renowned of his class in that sphere, equally for daring and prowess in personal encounters, and for superiority in the desperate intrepidity and skill in combating the devouring elements at fires, for which the volunteer fire department members were distinguished. Next he entered the arena of politics, and sought position. Preferment became his pillar of fire by night, his pillar of cloud by day. To sit, as a peer of any, there where his poor father had wrought at daily labor upon the stone-work of the National Capitol, and to carve for himself a nobler destiny in the great halls, about which the chisel of that honored father had carved the moldings of the massive marble columns, was then his soul's bounding aspiration; but at that time he looked not beyond a place as Representative, for the Senate was only for the experienced statesmen of eminent family of great renown or of substantial wealth. It was the unworthy scion of one of these ancient and eminent families by whom he was defeated, and that, too, by irregular means adopted by the same class purposely to defeat him, in the city which had been the home of his boyhood and his manhood until that mortifying and exasperating reverse. But he still had left to him the sustaining consciousness that his own class remained true to him; that they were more devoted to him than ever. A new sphere of action suddenly opened before him. The discovery of a land of gold, whither the Star of Empire would westward surely take its way, fresh roused the passion in his breast and gave it higher soaring flight. He departed from his home and friends, and with the vow that he should never return until he came as a Senator of the United States, he sailed for the land of glorious promise. Through sickness and poverty, through trials and difficulties, he pushed and wrought his way to the golden shore. No lonely wanderer was he in any land more than in another, for nowhere had he home or kindred; in every land

he was himself alone of his blood and line; and friends are friends wherever found or won. But he had friends, as warm friends, too, in California, even in that early period, as he had left in New York, or afterwards won. He adapted himself to the times and situation, and worked—worked hard. In a few months he leaped again into the field of politics, ceased to labor, and nevermore withdrew from active partisan life. The defeats he encountered during his six years pursuit of the Senatorship would have overwhelmed, dismayed, and driven any other leader from public life: they served simply as useful lessons and fresh spurs to guide and goad him onward. Of one of these defeats, Colonel Baker, his friend and eulogist, in his eloquent oration at Broderick's funeral, remarked:

"It is my duty to say that, in my judgment, when at a later period he sought to anticipate the Senatorial election, he committed an error which I think he lived to regret. It would have been a violation of the true principle of representative government, which no reason, public or private, could justify, and could never have met the permanent approval of good and wise men."

Twice again, subsequently, he met disastrous defeat; yet on each occasion, as we have seen, he managed by his own arts and power, which seemed almost superhuman, to convert these defeats into the equivalents of decisive triumphs. And in winning his last and crowning victory, again he planned and executed it in the face of all precedent, in bold disregard of established rules and natural order of events. But he won; and the world nods approval to the sentiment, that "there is nothing so successful as success." His victory made him the Senator; it brought him even greater exultation than the consummation of that life-long ambition: it clothed him with the power to dictate whom should be his colleagues; also with the opportunity to glut his natural propensity to wreak retribution for past contumely, and for what he harbored as deep wrongs done to him, from the two most conspicuous of his former rivals and opponents, and to have this acknowledged as his magnanimity! Such a career had no other lived; nor so marvelous a victory had any other ever gained.

Thus ends the story of the life and death of David C.

Broderick. He was an extraordinary man. Not until the generations which knew him, and among which he lived, shall have passed away, will the complete measure of the man himself, and the just reckoning of his extraordinary career, be written. Friendly bias and adverse prejudice will not now permit all to be presented as it should be presented; for there was in him such salient qualities of good and evil, that impartial judgment is impossible with contemporaneous mention; and while those who knew him most intimately have their faculties clouded, in greater or less degree, in the contemplation of the grandeur and power of his nature, the unconquerable antipathy of the many who knew him not personally, but only in his public life, will not permit just award to the good that belonged to him. To be viewed rightly, his character and his career must be placed, as was that grand statuary of the greatest of the Grecian sculptors, which, upon the ground before the multitude, and within close range of the eye, seemed an unshapely, rough, unpolished, gross mass of common stone; but raised to its fitting height, appeared the image of the god it typified. Broderick stood alone among men, above the multitude, strange and singular himself, an enigma to the world about him. Solitary as he was in lineage, and apart from the endearing ties which support and comfort and cheer man through struggles and difficulties, he was similarly separated and lonely in his ways of life. He had made his life in the city even a hermitage; and the most ascetic of monks subjected himself to no severer discipline. His friendship was an earnest, passionate quality; but it partook of the imperiousness of his nature, and required the votive offering of submission. As his devoted friend and ardent admirer, Charles A. Washburn, remarked in the editorial upon his death in the San Francisco *Times:* "He was always recognized by all who acted with him as the king, the leader, whose will was to be supreme, and before whom all others must bow."

His hatred was as a distillation of dislike, repugnance,

loathing, and scorn; it was implacable. There was not in his composition the quality of mirth: that had been wrung from it in the death of his mother, and the killing of his brother, whom he devotedly loved; and the humor, which is as the loosening of the strained bow to most men, was to him as an infirmity, that required to be tolerated, if it could not be subdued. But he was intensely ironical; and his hot-tempered outbursts of caustic, cutting satire were as the flame from the blow-pipe, or the slash of a cimeter. He was normally grave and stern; and the restless ambition which burned within him incessantly tinged or impregnated every moment and every action of his life, to rebuke levity or to restrain sportiveness. Although his youth had been passed without the opportunities, or the inclination indeed, to store his mind with useful knowledge, in his riper years he became omnivorous in his quest and voracious in his appetite for polite and standard literature; and the quantity of his reading, his ways of public life considered, was simply astounding; he was an assiduous, self-taught student. His dominant faculty was his control of men. In this respect he stood without a peer in his own State; and it is doubtful if, in his generation, he had an equal: certainly not a superior. His supporters he molded into devotees: some of them were as automatons; and he not only led them whither they were willing, but he sometimes impelled them to actions to which no other mortal power could have persuaded or forced them. No other than himself would have dared to supplement the attempt to force the election of a Senator, as he had done in 1854, by the method by which he accomplished his own election in 1857; on each of which occasions he moved a large majority of the State Legislature to violate the established precedent, the ancient usage, and the immemorial rule of order and of right, and to incur the deep displeasure of their constituency, to his own behest. The two events stand unparalleled in the political history of the country. And yet, he so bore himself on each occasion as though the plan he had devised and was press-

ing to conclusion was as thorough in its form as he intended it to be in the performance and conclusion. His pride among his friends and with the public was the fidelity of his pledged word; the earnestness of his grateful recognition of service in his behalf. Many of his supporters regarded him and served him as the ancient Romans regarded and served their acknowledged chiefs and champions: he as their protector and defender, if not also their provider; they, his loyal adherents, followers, clients, and dependents. Yet the truth is, the exigencies of the election struggle constrained him, as it is now known, to strange complications of his solemn obligations, out of some of which sprung his quarrel with President Buchanan, which cost him the deprivation of the Federal patronage he had reckoned upon and wrenched from his colleague, in order to augment his own great power in the State to undivided if not absolute supremacy.

Broderick had from his first association in political life felt and acted in accord with the Democratic party. His earliest affiliation was with the element which recognized John C. Calhoun as their apostle and national leader. He had strenuously opposed the Free-Soil movement of Martin Van Buren; and it was that element which had most to do with his defeat for Congress in New York. But he was always on the side of the masses, as opposed to the aristocratic or wealthy element of his own party. Similarly with Stephen A. Douglas, whom he at one time so bitterly denounced and vehemently opposed, he at length became the leader and champion, in his own State, of the Free State wing of the Democratic party. His association with the large majority of citizens from the States of the South had wrought a change of sentiment within him; and he led that sentiment in popular movements and political campaigns. This created against him, on the one hand, a strong antipathy, while on the other hand it brought to his standard many who had until then been his most stubborn opposers. His infirmity of temper, his imperiousness, and his dispo-

sition too often to denounce in unmeasured language and to imprecate the special objects of his hate, his scorn, or his fury, were the cause of unpleasant scenes, and several times involved him in serious difficulties. His duel with Judge Smith was the consequence of this unfortunate disposition; to it is attributable the lamentable meeting upon the fatal field which ended his life in the manner that caused and yet causes every good citizen to regret that it was so ended.

His mortal remains rest in Lone Mountain Cemetery—appropriately named as the repository of the ashes of the lone wonderful mortal—beneath the lofty monument there erected to his memory by his countless friends and admirers. His spirit, infused into the hearts of the thousands who still mourn and honor "Broderick," yet pervades the State, in the manner that, in his life, he would have exulted at. It still moves, agitates, divides, and controls parties and political organizations. To many, his name is still perpetuated as the symbol which animates them at the polls, similarly as the devoted descendants of the victims of Cromwell's violated pledge and Ireton's savagery are inspired by the cry of "Remember Limerick!" at fresh acts of British tyranny. It is a feeling which requires the wholesome influences of time and forgetfulness, accompanied with the disposition to fulfill the obligations of the Divine command, in its extinguishment. It can do the State no good; it is neither solace nor benefit to those who harbor it. Their mourned hero sleeps the everlasting sleep. His career and its fruits are fitter and more edifying subjects for their study and contemplation. He lived without a kinsman; he died without a peer in his own solitary way of life. He built his name more enduring than the monument consecrated to his memory; and while the generations to succeed may wonder that the mighty will of the man could have accomplished so much that was grand and startling, their unbiased judgment will also rightly fix his place among the noted of his country's conspicuous men. The name and his

line died with Broderick; but there is inseparably linked and comingled with the recollection of the man himself, the loving sympathies of innumerable friends, the earnest tribute of his countless mourners.

ORATION BY

COL. E. D. BAKER

DELIVERED OVER THE DEAD BODY OF DAVID C. BRODERICK, AT PORTSMOUTH SQUARE, SAN FRANCISCO, ON THE 18th OF SEPTEMBER, 1859.

Citizens of California:

A Senator lies dead in our midst! He is wrapped in a bloody shroud, and we, to whom his toils and cares were given, are about to bear him to the place appointed for all the living. It is not fit that such a man should pass to the tomb unheralded; it is not fit that such a life should steal unnoticed to its close; it is not fit that such a death should call forth no rebuke, or be followed by no public lamentation. It is this conviction which impels the gathering of this assemblage. We are here of every station and pursuit, of every creed and character, each in his capacity of citizen, to swell the mournful tribute which the majesty of the people offers to the unreplying dead. He lies today surrounded by little of funeral pomp. No banners droop above the bier, no melancholy music floats upon the reluctant air. The hopes of high-hearted friends droop like fading flowers upon his breast, and the struggling sigh compels the tear in eyes that seldom weep. Around him are those who have known him best and loved him longest; who have shared the triumph, and endured the defeat. Near him are the gravest and noblest of the State, possessed by a grief at once earnest and sincere; while beyond, the masses of the people whom he loved, and for whom his life was given, gather like a thunder-cloud of swelling and indignant grief.

In such a presence, fellow-citizens, let us linger for a moment at the portals of the tomb, whose shadowy arches vibrate to the public heart, to speak a few brief words of the man, of his life, and of his death.

Mr. Broderick was born in the District of Columbia, in 1819. He was of Irish descent, and of obscure and re-

spectable parentage; he had little of early advantages, and never summoned to his aid a complete and finished education. His boyhood and his early manhood were passed in the City of New York, and the loss of his father early stimulated him to the efforts which maintained his surviving mother and brother, and served also to fix and form his character even in his boyhood. His love for his mother was his first and most distinctive trait of character, and when his brother died—an early and sudden death—the shock gave a serious and reflective cast to his habits and his thoughts, which marked them to the last hour of his life.

He was always filled with pride, and energy, and ambition—his pride was in the manliness and force of his character, and no man had more reason than he for such pride. His energy was manifest in the most resolute struggles with poverty and obscurity, and his ambition impelled him to seek a foremost place in the great race for honorable power.

Up to the time of his arrival in California, his life had been passed amid events incident to such a character. Fearless, self-reliant, open in his enmities, warm in his friendships, wedded to his opinions, and marching directly to his purpose through and over all opposition, his career was checkered with success and defeat: but even in defeat his energies were strengthened and his character developed. When he reached these shores, his keen observation taught him at once that he trod a broad field, and that a higher career was before him. He had no false pride: sprung from a people and of a race whose vocation was labor, he toiled with his own hands, and sprang at a bound from the workshop to the legislative hall. From that time there congregated around him and against him the elements of success and defeat—strong friendships, bitter enmities, high praise, malignant calumnies—but he trod with a free and a proud step that onward path which has led him to glory and the grave.

It would be idle for me, at this hour and in this place, to speak of all that history with unmitigated praise: it will

be idle for his enemies hereafter to deny his claim to noble virtues and high purposes. When, in the Legislature, he boldly denounced the special legislation which is the curse of a new country, he proved his courage and his rectitude. When he opposed the various and sometimes successful schemes to strike out the salutary provisions of the Constitution which guarded free labor, he was true to all the better instincts of his life. When, prompted by ambition and the admiration of his friends, he first sought a seat in the Senate of the United States, he aimed by legitimate effort to attain the highest of all earthly positions, and failed with honor.

It is my duty to say that, in my judgment, when at a later period he sought to anticipate the Senatorial election, he committed an error which I think he lived to regret. It would have been a violation of the true principles of representative government, which no reason, public or private, could justify, and could never have met the permanent approval of good and wise men. Yet, while I say this over his bier, let me remind you of the temptation to such an error, of the plans and reasons which prompted it—of the many good purposes it was intended to effect. And if ambition, "the last infirmity of noble minds," led him for a moment from the better path, let me remind you how nobly he regained it.

It is impossible to speak within the limits of this address, of the events of that session of the Legislature at which he was elected to the Senate of the United States; but some things should not be passed in silence here. The contest between him and the present Senator had been bitter and personal. He had triumphed. He had been wonderfully sustained by his friends, and stood confessedly "the first in honor and the first in place." He yielded to an appeal made to his magnanimity by his foe. If he judged unwisely, he has paid the forfeit well. Never in the history of political warfare has any public man been so pursued; never has malignity so exhausted itself.

Fellow-citizens! the man whose body lies before you was your Senator. From the moment of his election his character has been maligned, his motives attacked, his courage impeached, his patriotism assailed. It has been a system tending to one end: and the end is here. What was his crime? Review his history — consider his public acts — weigh his private character — and before the grave encloses him forever, judge between him and his enemies!

As a man—to be judged in his private relations—who was his superior? It was his boast, and amid the general license of a new country, it was a proud one, that his most scrutinizing enemy could fix no single act of immorality upon him! Temperate, decorous, self-restrained, he had passed through all the excitements of California, unstained. No man could charge him with broken faith or violated trust; of habits simple and inexpensive, he had no lust of gain. He overreached no man's weakness in a bargain, and withheld from no man his just dues. Never, in the history of the State, has there been a citizen who has borne public relations, more stainless in all respects than he.

But it is not by this standard he is to be judged. He was a public man, and his memory demands a public judgment. What was his public crime? The answer is in his own words: *"I die because I was opposed to a corrupt administration, and the extension of slavery."* Fellow-citizens, they are remarkable words, uttered at a very remarkable moment: they involve the history of his Senatorial career, and of its sad and bloody termination.

When Mr. Broderick entered the Senate, he had been elected at the beginning of a Presidential term as the friend of the President elect, having undoubtedly been one of his most influential supporters. There were unquestionably some things in the exercise of the appointing power which he could have wished otherwise; but he had every reason to remain with the Administration, which could be supposed to weigh with a man in his position. He had heartily maintained the doctrine of Popular Sovereignty,

as set forth in the Cincinnati Platform, and he never wavered in his support till the day of his death. But when in his judgment the President betrayed his obligations to his party and country—when, in the whole series of acts in relation to Kansas, he proved recreant to his pledges and instructions—when the whole power of the Administration was brought to bear upon the legislative branch of the Government, in order to force Slavery upon an unwilling people—then, in the high performance of his duty as a Senator, he rebuked the Administration by his voice and his vote, and stood by his principles. It is true, he adopted no half-way measures. He threw the whole weight of his character into the ranks of the Opposition. He endeavored to arouse the people to an indignant sense of the iniquitous tyranny of federal power, and, kindling with the contest, became its fiercest and firmest opponent. Fellow-citizens, whatever may have been your political predilections, it is impossible to repress your admiration, as you review the conduct of the man who lies hushed in death before you. You read in his history a glorious imitation of the great popular leaders who have opposed the despotic influences of power in other lands, and in our own. When John Hampden died on Chalgrove field, he sealed his devotion to popular liberty with his blood. The eloquence of Fox found the sources of its inspiration in his love for the people. When Senators conspired against Tiberius Gracchus, and the Tribune of the people fell beneath their daggers, it was power that prompted the crime and demanded the sacrifice. Who can doubt, if your Senator had surrendered his free thought, and bent in submission to the rule of the Administration — who can doubt that instead of resting on a bloody bier, he would have this day been reposing in the inglorious felicitude of Presidential sunshine?

Fellow-citizens, let no man suppose that the death of the eminent citizen of whom I speak was caused by any other reason than that to which his own words assign it. It has

been long foreshadowed—it was predicted by his friends—it was threatened by his enemies: it was the consequence of intense political hatred. His death was a political necessity, poorly veiled beneath the guise of a private quarrel. Here, in his own State, among those who witnessed the late canvass, who know the contending leaders, among those who know the antagonists on the bloody ground—here, the public conviction is so thoroughly settled, that nothing need be said. Tested by the correspondence itself, there was no cause, in morals, in honor, in taste, by any code, by the custom of any civilized land, there was no cause for blood. Let me repeat the story—it is as brief as it is fatal: A Judge of the Supreme Court descends into a political convention—it is just, however, to say that the occasion was to return thanks to his friends for an unsuccessful support. In a speech bitter and personal he stigmatized Senator Broderick and all his friends in words of contemptuous insult. When Mr. Broderick saw that speech, he retorted, saying in substance, that he had heretofore spoken of Judge Terry as an honest man, but that he now took it back. When inquired of, he admitted that he had so said, and connected his words with Judge Terry's speech as prompting them. So far as Judge Terry personally was concerned, this was the cause of mortal combat; there was no other.

In the contest which has just terminated in the State, Mr. Broderick had taken a leading part; he had been engaged in controversies very personal in their nature, because the subjects of public discussion had involved the character and conduct of many public and distinguished men. But Judge Terry was not one of these. He was no contestant; his conduct was not in issue; he had been mentioned but once incidentally—in reply to his own attack—and, except as it might be found in his peculiar traits or peculiar fitness, there was no reason to suppose that he could seek any man's blood. When William of Nassau, the deliverer of Holland, died in the presence of

his wife and children, the hand that struck the blow was not nerved by private vengeance. When the fourth Henry passed unharmed amid the dangers of the field of Ivry, to perish in the streets of his capital by the hand of a fanatic, he did not seek to avenge a private grief. An exaggerated sense of personal honor—a weak mind with choleric passions, intense sectional prejudice united with great confidence in the use of arms—these sometimes serve to stimulate the instruments which accomplish the deepest and deadliest purpose.

Fellow-citizens! One year ago today I performed a duty, such as I perform today, over the remains of Senator Ferguson, who died as Broderick died, tangled in the meshes of the code of honor. Today there is another and more eminent sacrifice. Today I renew my protest; today I utter yours. The code of honor is a delusion and a snare; it palters with the hope of a true courage and binds it at the feet of crafty and cruel skill. It surrounds its victim with the pomp and grace of the procession, but leaves him bleeding on the altar. It substitutes cold and deliberate preparation for courageous and manly impulse, and arms the one to disarm the other; it may prevent fraud between practiced duelists who should be forever without its pale, but it makes the mere "trick of the weapon" superior to the noblest cause and the truest courage. Its pretence of equality is a lie—it is equal in all the form, it is unjust in all the substance—the habitude of arms, the early training, the frontier life, the border war, the sectional custom, the life of leisure, all these are advantages which no negotiation can neutralize, and which no courage can overcome.

But, fellow-citizens, the protest is not only spoken, in your words and in mine—it is written in indelible characters; it is written in the blood of Gilbert, in the blood of Ferguson, in the blood of Broderick; and the inscription will not altogether fade.

With the administration of the code in this particular case, I am not here to deal. Amid passionate grief, let us

strive to be just. I give no currency to rumors of which personally I know nothing; there are other tribunals to which they may well be referred, and this is not one of them. But I am here to say, that whatever in the code of honor or out of it demands or allows a deadly combat where there is not in all things entire and certain equality, is a prostitution of the name, is an evasion of the substance, and is a shield, emblazoned with the name of Chivalry, to cover the malignity of murder.

And now, as the shadows turn towards the East, and we prepare to bear these poor remains to their silent resting-place, let us not seek to repress the generous pride which prompts a recital of noble deeds and manly virtues. He rose unaided and alone; he began his career without family or fortune, in the face of difficulties; he inherited poverty and obscurity: he died a Senator in Congress, having written his name in the history of the great struggle for the rights of the people against the despotism of organization and the corruption of power. He leaves in the hearts of his friends the tenderest and the proudest recollections. He was honest, faithful, earnest, sincere, generous and brave; he felt in all the great crises of his life that he was a leader in the ranks, that it was his high duty to uphold the interests of the masses; that he could not falter. When he returned from that fatal field, while the dark wing of the Archangel of Death was casting its shadows upon his brow, his greatest anxiety was as to the performance of his duty. He felt that all his strength and all his life belonged to the cause to which he had devoted them. "Baker," said he—and to me they were his last words—"Baker, when I was struck I tried to stand firm, but the blow blinded me, and I could not." I trust it is no shame to my manhood that tears blinded me as he said it. Of his last hour I have no heart to speak. He was the last of his race; there was no kindred hand to smooth his couch or wipe the death damp from his brow; but around that dying bed strong men, the friends of early

manhood, the devoted adherents of later life, bowed in irrepressible grief, "and lifted up their voices and wept."

But, fellow-citizens, the voice of lamentation is not uttered by private friendship alone — the blow that struck his manly breast has touched the heart of a people, and as the sad tidings spread, a general gloom prevails. Who now shall speak for California?—who be the interpreter of the wants of the Pacific coast? Who can appeal to the communities of the Atlantic who love free labor? Who can speak for masses of men with a passionate love for the classes from whence he sprung? Who can defy the blandishments of power, the insolence of office, the corruption of administrations? What hopes are buried with him in the grave!

"Ah! who that gallant spirit shall resume,
Leap from Eurotas' bank, and call us from the tomb?"

But the last word must be spoken, and the imperious mandate of Death must be fulfilled. Thus, O brave heart! we bear thee to thy rest. Thus, surrounded by tens of thousands, we leave thee to the equal grave. As in life, no other voice among us so rung its trumpet blast upon the ear of freemen, so in death its echoes will reverberate amid our mountains and valleys, until truth and valor cease to appeal to the human heart.

Good friend! true hero! hail and farewell.

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